

CHAPTER 10-10. PROCEDURES

<u>DIVISION 10-10-001.</u>	PURPOSE
<u>10-10-001-0001.</u>	PURPOSE:
<u>DIVISION 10-10-002.</u>	REQUIRED PERMITS AND APPROVALS
<u>10-10-002-0001.</u>	REQUIRED PERMITS AND APPROVALS:
<u>DIVISION 10-10-003.</u>	PROCEDURES OF GENERAL APPLICABILITY
<u>10-10-003-0001.</u>	PROCEDURES OF GENERAL APPLICABILITY:
<u>10-10-003-0002.</u>	INFORMAL REVIEW BY DEVELOPMENT REVIEW BOARD:
<u>10-10-003-0003.</u>	APPLICATION SUBMITTAL AND REVIEW:
<u>10-10-003-0004.</u>	PUBLIC HEARING BY REVIEW BODY:
<u>10-10-003-0005.</u>	AMENDMENTS TO DEVELOPMENT APPROVALS:
<u>10-10-003-0006.</u>	EFFECT OF DENIALS:
<u>10-10-003-0007.</u>	JOINT SUBMISSION AND CONSIDERATION OF DIFFERENT REQUESTS FOR DEVELOPMENT APPROVAL:
<u>DIVISION 10-10-004.</u>	PROCEDURES OF SPECIFIC APPLICABILITY
<u>10-10-004-0001.</u>	PROCEDURES OF SPECIFIC APPLICABILITY:
<u>10-10-004-0002.</u>	PERMITTED OR AUTHORIZED USES:
<u>10-10-004-0003.</u>	DEVELOPMENT OR SITE PLAN REVIEW:
<u>10-10-004-0004.</u>	CONDITIONAL USES:
<u>10-10-004-0005.</u>	VARIANCES/BOARD OF ADJUSTMENT
<u>10-10-004-0006.</u>	ADMINISTRATIVE APPEALS/BOARD OF ADJUSTMENT:
<u>10-10-004-0007.</u>	TEXT AMENDMENTS AND REZONINGS:
<u>10-10-004-0008.</u>	CERTIFICATES OF OCCUPANCY:
<u>10-10-004-0009.</u>	TEMPORARY USE PERMITS:
<u>10-10-004-0010.</u>	SIGN PERMITS:
<u>10-10-004-0011.</u>	RESERVED:
<u>10-10-004-0012.</u>	BUILDING RELOCATION REQUESTS:
<u>10-10-004-0013.</u>	PROPERTY DEVELOPMENT REVIEW FEES:
<u>10-10-004-0014.</u>	CIVIL HEARING OFFICER.
<u>10-10-004-0015.</u>	EXACTION APPEALS.
<u>10-10-004-0016.</u>	ANNEXATION PROCEDURES.
<u>DIVISION 10-10-005.</u>	NONCONFORMITIES
<u>10-10-005-0001.</u>	PURPOSE AND SCOPE:
<u>10-10-005-0002.</u>	EXPANSION OF NONCONFORMING USE:
<u>10-10-005-0003.</u>	ABANDONMENT OF NONCONFORMING USE:
<u>10-10-005-0004.</u>	CHANGE OF NONCONFORMING USE:
<u>10-10-005-0005.</u>	REPAIR OR RECONSTRUCTION OF NONCONFORMING STRUCTURE:
<u>10-10-005-0006.</u>	ALTERATION OR ENLARGEMENT OF NONCONFORMING STRUCTURE:
<u>10-10-005-0007.</u>	MOVING OF NONCONFORMING STRUCTURE:
<u>10-10-005-0008.</u>	NONCONFORMING LOTS:
<u>10-10-005-0009.</u>	TERMINATION OF NONCONFORMING STATUS:

GUIDE FOR LOCATING SPECIFIC PROCEDURES

PROCESS	# OF REVIEWS	FINAL REVIEW BODY	PROCEDURE SECTION NO.	PAGE NUMBER
Building Permits	1	Building Division	10-10-004-0002	8
Building Relocations	1	Development Review Board	10-10-004-0012	32
Certificate of Occupancy	1	Community Development Director	10-10-004-0008	30
Conditional/ Temp. Certificate of Occupancy		Community Development Director	10-10-004-00008	30
Conditional Use Permit	1	Planning and Zoning Comm.	10-10-004-0004	15
Site Plan Review	1	Development Review Board	10-10-004-0003	11
Requests for Minor Modifications to Existing Approved Planned Unit Developments	1	Planning and Zoning Commission	10-10-004-0011 Also Chapter 10-11	32
Sign Permits	2	Planning Dir. & Building Div.	10-10-004-0010	31
Temporary Use Permits	1	Development Review Board	10-10-004-0009	31
Variances	1	Board of Adjustment	10-10-004-0005	19
Zoning Map and Text Amendments	2	City Council	10-10-004-0007	23
Administrative Appeals	1	Board of Adjustment	10-10-004-0006	20
Nonconformities	1	P&Z Commission	Division 10-10-005	40
Subdivisions	5	City Council Development Review Board	Chapter 10-11 Division 10-11-004	3
General Plan Amendment	2	City Council	Chapter 10-12	
Minor Land Divisions	1	Development Review Board	Chapter 10-11	

NOTE: does not include DRB review unless DRB is final review body; also does not include appeals.

DIVISION 10-10-001. PURPOSE

10-10-001-0001. PURPOSE:

The purpose of this Chapter is to provide for the orderly application and processing of applications and requests before the various development-related bodies of the City.

DIVISION 10-10-002. REQUIRED PERMITS AND APPROVALS**10-10-002-0001. REQUIRED PERMITS AND APPROVALS:**

- A. GENERAL. The development review procedures set out in this Chapter establish the standards and regulations for review and approval of all proposed development of property in the City of Flagstaff. The development review process is designed to provide a comprehensive, consistent, and efficient method for the City to implement its General Plan and other adopted goals, policies, and standards.
- B. LIST OF APPROVALS. Before commencing the review and approval process, it is recommended that any person seeking development approval should read through the entire Section that pertains to his or her development. Flow charts are provided at the end of each Section to illustrate the various procedures. However, the times listed in the flow charts for staff review are subject to change at the direction of the City Manager. The following procedures and/or permits may be required prior to obtaining final approval for a development project: (Ord. 2000-08, 6/6/00)
 - 1. Building Permit (Section 10-10-004-0002)
 - 2. Conditional Use Permit (Section 10-10-004-0004)
 - 3. Variance (Section 10-10-004-0005)
 - 4. Administrative Appeal (Section 10-10-004-0006)
 - 5. Text Amendment or Rezoning (Section 10-10-004-0007)
 - 6. Development or Site Plan Review (Section 10-10-004-0003)
 - 7. Certificate of Occupancy (Section 10-10-004-0008)
 - 8. Temporary Permit (Section 10-10-004-0009)
 - 9. Sign Permit (Section 10-10-004-0010)
 - 10. Plan Amendments (see Chapter 10-12)
 - 11. Subdivisions (see Chapter 10-11)

DIVISION 10-10-003. PROCEDURES OF GENERAL APPLICABILITY

10-10-003-0001. PROCEDURES OF GENERAL APPLICABILITY:

This Division contains general zoning procedure requirements. Unless stated otherwise, the Sections contained in this Division shall apply to all applications and requests.

10-10-003-0002. INFORMAL REVIEW BY DEVELOPMENT REVIEW BOARD:

- A. PURPOSE OF REVIEW. The purpose of an informal review is to ensure that the applicant is aware of the procedures and substantive requirements of the City and to "head off" any problems which may be identified as early in the process as possible. The conference is intended to provide a structure in which to assist the applicant and prevent future misunderstandings. The review should be used to discuss the proposals, views, and concerns of the applicant, and to determine whether any of the application requirements should be waived or whether additional information will be required. Normally, no formal action is taken by the Development Review Board on informal review items.
- B. REQUEST. Any applicant for development approval may request an informal review prior to the filing of a formal site plan or other type of application by filing an application for informal review with the Development Review Board.
- C. Prior to the preparation and submission of a formal application or request for annexation, rezoning, or plat approval, the request shall be reviewed by the Development Review Board. The Board shall make recommendations to the applicant regarding the application or request. These recommendations will indicate to the applicant areas where the application could be amended to more completely conform to the provisions of this Ordinance and other applicable regulations.

10-10-003-0003. APPLICATION SUBMITTAL AND REVIEW:

- A. APPLICATION REQUIREMENTS. All applications for development approval shall be submitted to the Planning Division or Community Development Department, as provided in this Chapter, on a form specified for each type of development approval as provided by the City, accompanied by the payment of a fee when required. Upon completion of this review, a decision or recommendation concerning such application shall be determined by the responsible officer, division, or department and the applicant notified within two (2) days if the application is incomplete or contrary to City ordinances or policies. No application shall be reviewed which is not complete, and no public hearings shall be scheduled until such application is determined complete. (Ord. 1997, 6-15-99)
- B. REVIEW BY THE COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION, AND OTHER CITY DEPARTMENTS AND DIVISIONS. Upon receipt of a complete application, the Community Development Department or the Planning Division shall review the application and determine if it is in compliance with the provisions of these regulations. In order to make this determination, either department may submit such application to such other City departments or divisions as may be appropriate to the nature of such application.

10-10-003-0004. PUBLIC HEARING BY REVIEW BODY:

In those cases where a public hearing is required as part of the approval process, no hearing shall be scheduled until the applicant has paid the required fee, or fees, to cover the expense of all required notices. The fees shall be as determined by the City Council, and are listed in the Property Development Review Fee Schedule, available as a separate document. In addition, all of the applicable following provisions must be met: (Ord. 2002-15, 11-05-02)

- A. NOTICE REQUIREMENTS. Any changes to State Law notice requirements shall control over this provision in the manner of providing notice.
 - 1. CONTENTS. Every published, posted, and mailed notice of public hearing shall include:

10-10-003-0004

- a. The date, time, and place of the hearing.
 - b. The name of the body conducting the hearing, and a telephone number to receive additional information.
 - c. The address or location of the subject property.
 - d. A brief summary of the proposal under consideration and a general description of the area affected.
 - e. The existing zoning district classification.
 - f. The word "Zoning," if applicable.
2. MANNER OF PUBLICATION. All notices of public hearings shall be published in a newspaper of general circulation published or circulated in the City of Flagstaff.
 3. MANNER OF POSTING. Notices of public hearings for appeals, variances, annexations, rezonings, and Conditional Use Permits shall be posted on the subject property in a manner clearly visible from a distance of one hundred (100) feet.
 4. MANNER OF NOTIFICATION. Notices of required public hearings shall be sent by first-class mail to the following persons:
 - a. Each real property owner, as shown on the last assessment of the property, of any land on which a conditional use, rezoning, or annexation is proposed (if different from the applicant).
 - b. Each real property owner, (if different than the applicant), as shown on the last assessment of the property, of any land which is located within three hundred (300) feet of the property on which a conditional use or rezoning is proposed.
 - c. The planning agencies of all local government agencies which have reviewed and commented on the proposed development or rezoning or which about the subject property.
 - d. In proceedings involving one or more of the following proposed changes or related series of changes in the standards governing land uses by amending the text of these regulations, notice shall be provided in the manner prescribed by Subsection e. below:
 - (1) A ten (10) percent or more increase or decrease in the number of square feet or units that may be developed.
 - (2) A ten (10) percent or more increase or reduction in the allowable height of buildings.
 - (3) An increase or reduction in the allowable number of stories of buildings.
 - (4) A ten (10) percent or more increase or decrease in setback or open space requirements.
 - (5) An increase or reduction in permitted uses.
 - e. In proceedings governed by Subsection d. above, notice shall be provided to real property owners pursuant to at least one (1) of the following notification procedures:

- (1) Notice shall be sent by first class mail to each real property owner, as shown on the last assessment, whose real property would be directly governed by the changes.
 - (2) Notice shall be included with water bills or other mailings.
 - (3) Notice shall be published in a newspaper of general circulation published or circulated in the City of Flagstaff in the form of a "display ad" covering not less than one-eighth (1/8) of a full page.
 - f. If notice is provided pursuant to Subsection e. above, notice shall be sent to all organizations, associations, and other interested persons or groups that have registered their names and addresses with the City as being interested in receiving such notice and have paid an annual fee to defray the cost of mailing (see Section 10-10-004-0013 of this Chapter).
 - g. Notwithstanding the notice requirements set forth in Subsections d., e., and f. above, the failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the amendments for which the notice was given.
 5. RESPONSIBILITY FOR PROVIDING NOTICE.
 - a. The City shall be responsible for notice which is required to be published.
 - b. The City shall post notice as required, and the applicant shall be required to maintain posting and remove the sign within seven (7) days after the hearing and final action.
 - c. If notice is required to be provided by mail, the applicant shall be responsible for providing the City with a list of names and addresses of property owners within three hundred (300) feet of the subject property, pursuant to this Section. In addition, the applicant shall provide a stamped, pre-addressed No. 10 envelope (approximately 4-1/4" x 9-1/2") for each property owner on the list referenced above. Failure to provide a complete list or the associated envelopes shall constitute an incomplete application and will delay the public hearing. The City shall be responsible for mailing the required notices.
 6. TIME OF NOTICE. All required notices shall be provided at least fifteen (15) days prior to the date of the public hearing.
- B. HEARING PROCEDURES.
1. APPLICABILITY. All hearings shall be open to the public and shall be conducted in accordance with the procedures set forth in these regulations and Arizona statutes.
 2. CONDUCT OF HEARING.
 - a. SUBMISSION OF INFORMATION. Any person may appear at a public hearing and give testimony or submit written materials, either individually or as a representative of an organization. The decision-making body may exclude information that it finds to be irrelevant, immaterial, or unduly repetitious.
 - b. DUTY OF THE PLANNING DIVISION.
 - (1) The Planning Division shall present a written or oral report containing pertinent application considerations and the standards set out in these regulations, as well as other adopted plans and policies, including the General Plan, as may be

applicable. The Planning Division staff report shall contain the reports and recommendations of other City departments, if applicable, and a recommendation, if required by another provision of these regulations. (Ord. 1997, 6-15-99)

- (2) Production of Additional Information. At any time during a public hearing, on motion of the decision-making body, the applicant or the staff may be required to produce additional information with respect to the proposed application.
- c. CONTINUANCES. The decision-making body may continue a hearing to a specified date, time, and place, but no more than thirty (30) days later, at the request of the staff, the applicant, or any other party. If possible, the date of such continuance shall be publicly announced at the public hearing. If a public hearing is proposed to be continued for longer than thirty (30) days, the request shall be readvertised for a new public hearing under the procedures of this section. If the applicant requests a continuance, a fee shall be required pursuant to Section 10-10-004-0013 of this Chapter (See Property Development Review Fee Schedule, available as a separate document). (Ord. 1997, 6-15-99) (Ord. 2002-15, 11-05-02)
- d. RECORD OF HEARING.
 - (1) The record of proceedings shall consist of the minutes, if applicable, all applications, exhibits, and papers submitted in any proceeding with respect to the matter being considered, and the summary and report or reports of the Planning Division.
 - (2) All summaries and reports of the City's reviewing departments shall be public records, open to inspection at a reasonable time and upon reasonable notice.
 - (3) The record of the proceedings shall also show the vote of each member of the decision-making body upon each question, or shall indicate the fact that a member was absent or was excused from voting.

10-10-003-0005. AMENDMENTS TO DEVELOPMENT APPROVALS:

Development approvals shall be amended according to the following processes:

- A. MINOR AMENDMENTS. Applications for minor amendments shall be reviewed by the Planning Director. The Planning Director may approve the changes, so long as the development will meet all the other standards or requirements set forth in these regulations which apply to that development, and so long as the changes will not cause any of the following circumstances to occur:
 1. A change in the character of the development.
 2. An increase in the bulk of the development.
 3. An increase in the number of dwelling units or lots. (Ord. 1997, 6-15-99)
 4. An increase in the problems of circulation, safety, and utilities.
 5. A change in the external impacts on adjacent property.
 6. A reduction in the originally approved setbacks from property lines, or modification of structure height, except as noted in Subsection B. below.
 7. An increase in the ground coverage authorized in the zoning district.

8. A reduction in the number of off-street parking and/or loading spaces below the minimum required.
 9. Any change which would require approval by the applicable Homeowners Association, until such written approval is given. (Ord. 1997, 6-15-99)
- B. **MINOR MODIFICATIONS OF SETBACKS, BUILDING HEIGHTS AND LOT COVERAGE.** Review of the application shall be by the Planning Director. The Planning Director may authorize a modification of five (5) percent or two (2) feet, whichever is greater, in the designated setback or use height, and up to three (3) percent modification in residential lot coverage if, in the opinion of the Planning Director, the literal enforcement of the provisions of this Ordinance will result in an unnecessary hardship on the property owner. See also Section 10-03-006-0001 for encroachments into minimum required yards. (Ord. 1997, 6-15-99)
- C. **OTHER AMENDMENTS.** Except as provided in this Section, applications for amendments to development approvals which are not minor shall be handled in the same manner as an original application. Applications for amendments to the conditions which had been previously imposed on the approved conditional use shall be considered and decided by the Planning and Zoning Commission after a public hearing. Notice of such hearing shall be provided pursuant to the requirements of State Law.

10-10-003-0006. EFFECT OF DENIALS:

A new application concerning property for which a previous application has been denied may only be considered when:

- A. The application does not involve the same request for Conditional Use Permit, variance, amendment to the General Plan or Zoning Map determination of location of district boundary line, or allege the same misinterpretation, point of non-coverage, or hardships as the previous application; or
- B. The subsequent application involves a development proposal which is materially different from prior proposals, in the opinion of the Planning Director; or is responsive, in the opinion of the Planning Director, to negative findings set forth in the denial of the prior application; or
- C. A substantial change in the use of adjacent property has occurred since the previous application was denied; or
- D. A period of not less than one (1) year has passed since the previous application was denied and all appeals provided by the City have been exhausted.

10-10-003-0007. JOINT SUBMISSION AND CONSIDERATION OF DIFFERENT REQUESTS FOR DEVELOPMENT APPROVAL:

If more than one (1) development approval is required, for example a Conditional Use Permit and a site plan review, an applicant may request that the approvals be considered jointly. Depending on the type of approvals required, one decision may need to be made subject to receipt of approval of another decision-making body; in no event, if a rezoning or General Plan amendment is required may a variance, conditional use or other development approval be granted prior to the rezoning or General Plan amendment. However, such development applications may be discussed jointly with a related General Plan amendment or rezoning at the same meeting, and may be approved contingent on the approval of the General Plan amendment or rezoning by the City Council. (Ord. 1997, 6-15-99)

DIVISION 10-10-004. PROCEDURES OF SPECIFIC APPLICABILITY**10-10-004-0001. PROCEDURES OF SPECIFIC APPLICABILITY:**

This Division contains specific zoning procedure requirements. Unless stated otherwise, the Sections contained in this Division shall apply to the specified applications and requests.

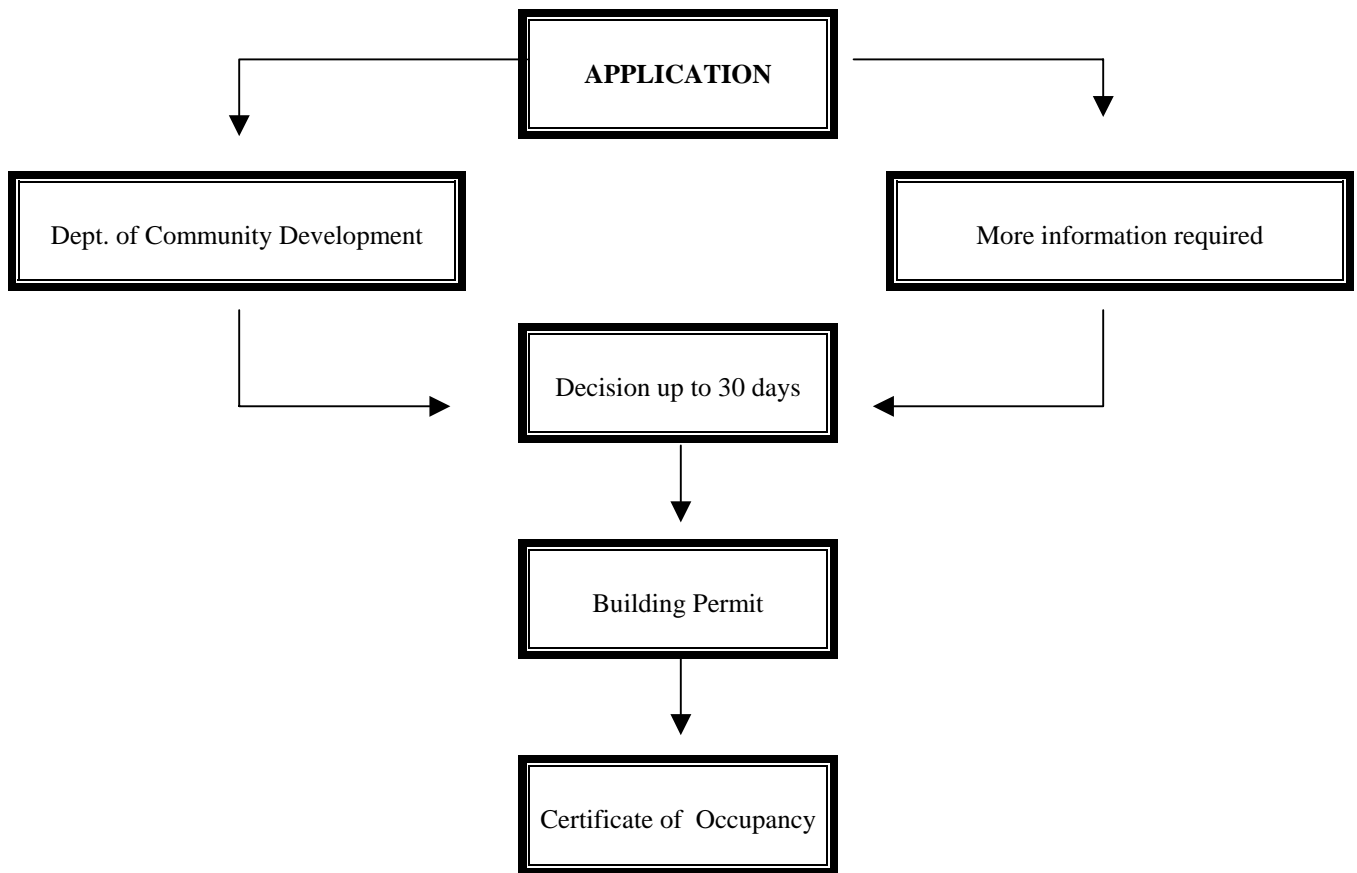
10-10-004-0002. PERMITTED OR AUTHORIZED USES:

- A. **PURPOSE.** The purpose of classifying some uses as "permitted" or "authorized," pursuant to Chapter 10-03 and Division 10-02-005, is to ensure that those types of development which are fundamentally appropriate and are adjacent to certain other land uses in a zoning district will be permitted provided that they are developed in conformity with these regulations.
- B. **PERMITS REQUIRED.**
 - 1. No development or establishment of an authorized use shall be permitted until the property owner or authorized representative has obtained a Building Permit and/or Certificate of Occupancy and Development Review Board approval if required by this Chapter. (Ord. 1997, 6-15-99)
 - 2. No development shall proceed in the City without the issuance of a Building Permit. No Building Permit shall be issued unless the application for development approval complies with the provisions of these regulations, other applicable City ordinances, and specific prior approvals regarding the development, such as site plans, conditional uses, or rezonings.
- C. **APPLICATION REQUIREMENTS.** An application for a Building Permit shall be submitted to the Building Division and shall provide the following information:
 - 1. A plot plan, drawn to scale, showing: the exact size, shape, and dimension of the lot to be built upon; the exact size and location on the lot of all existing buildings and structures; the exact size and location on the lot of the structure or the building proposed to be repaired, altered, erected, or moved; and the size, arrangement, number of parking stalls, movement of vehicles, and ingress and egress drives for all off-street parking and loading facilities. The plot plan shall include, on the same plan or a separate plan, a map or maps identifying the resource protection areas and base site area with calculation sheets, as required by Chapter 10-04 of this Ordinance, and an outdoor lighting plan pursuant to Chapter 10-08 of this Ordinance.
 - 2. A declaration of the existing and intended use of each existing and proposed building or structure on the lot and the number of families and housekeeping units which each existing building is designed to accommodate.
 - 3. Additional information, if requested, relating to the proposed improvement needed to determine compliance with these regulations.
 - 4. All required structural, electrical, mechanical, plumbing, civil engineering, and other drawings and documents necessary to meet the requirements of the Uniform Building Code and other Codes adopted by the City of Flagstaff.
 - 5. A Building Permit shall not be issued for any construction without provision for street and utility rights-of-way and easements being provided for and in conjunction with the proposed development or building as required to conform with the adopted General Plan or any of its parts and City of Flagstaff requirements.
- D. **REVIEW.** The Building Division shall review the application for compliance with the required contents of the application as set forth in this Section, as well as the Uniform Building Code and all other applicable codes and ordinances.

10-10-004-0002

- E. FINAL DECISION. The Building Division shall make its decision within thirty (30) days of receiving the application, either issuing the permit or requesting the applicant to complete the compliance requirements.
- F. EFFECT OF APPROVAL. Issuance of a Building Permit authorizes the holder to commence construction in accordance with the terms of the permit. The applicant shall be required to follow the procedures of this Chapter for any additional applicable permits or approvals in order to complete the development and occupancy requirements for the subject property.

**ILLUSTRATION 10-10-004-0002
AUTHORIZED USE PROCEDURE**



10-10-004-0003. DEVELOPMENT OR SITE PLAN REVIEW:

- A. **PURPOSE.** The purpose of this Section is to set forth procedures and standards for processing development or site plan review applications.
- B. **APPROVAL REQUIRED.** Development Review Board approval shall be required for all authorized uses, changes of use and approved conditional uses as determined by representatives of the Development Review Board, in any district, except for the following: (Ord. 1997, 6-15-99)
1. Detached single-family dwellings (up to two on one lot, where permitted by the zoning district), and related accessory uses and buildings in approved subdivisions; (Ord. 1997, 6-15-99)
 2. Interior tenant alterations or improvements which do not affect parking requirements or exterior building appearance;
 3. Nonstructural remodeling of facade treatment;
 4. Sign permits for properties not otherwise subject to development review.

NOTE: On cases when Development Review Board participation is not initially required, the representative reviewing plans submitted may subsequently require full Development Review Board review and approval if required by applicable code sections. (Ord. 1741, 3-17-92)

- C. **APPLICATION REQUIREMENTS.** An applicant for approval of development review documents shall submit an application to the Community Development Department on a form prescribed by the City. The application shall be accompanied by the required development review documents and any other necessary information requested by the Department. See the Development Review Board Powers and Duties in Chapter 10-09.
- D. **SUBMISSION REQUIREMENTS.** The required number (per application) of fully dimensioned site plans shall be submitted by the applicant and shall contain the following:
1. The proposed name of the development.
 2. The address or location of the proposed development.
 3. The names, addresses, and telephone numbers of the owners and developers of the property and of the designer of the plan.
 4. The boundary line of the site, indicated by a solid line, and the total acreage encompassed by the site.
 5. Parcel dimensions.
 6. The location, ownership, widths, and names of all existing and previously platted streets, rights-of-way, parks, and other public or open spaces located within or adjacent to the subject site.
 7. The location and dimensions of all existing utility service lines and connections, and the location of all public facilities adjacent to the site.
 8. The location and dimensions of all permanent easements, section and municipal boundary lines adjacent to the site.
 9. The location of existing sewers, water mains, culverts, and other underground facilities within and adjacent to the site, indicating pipe sizes, grades, and manholes.

10-10-004-0003

10. The location, proposed use, dimensions, floor area, floor plans, and exterior building elevation plans of all existing and proposed buildings.
 11. The location and dimensions of vehicular and pedestrian ways, entrances, exists, acceleration and deceleration lanes, including the design for all on-site traffic circulation.
 12. The location, arrangement, number, size and angle of parking and loading spaces.
 13. The circulation patterns for all proposed off-street parking and loading areas.
 14. The location of the drainage system and sanitary sewers.
 15. The location, height, and material of exterior boundary walls, fences, and buffer landscaping.
 16. The landscaping plans for the development indicating the location and specifications of groundcover, finished grades, trees, shrubs, watercourses, slopes, banks, ditches, and method of irrigation (See Chapter 10-06 for bufferyard requirements).
 17. The location and type of all exterior lighting (See Chapter 10-08 for requirements).
 18. The location, dimensions, materials, and lighting of all signs (See Chapter 10-08).
 19. The location, general exterior dimensions, and proposed exterior construction materials of principal and accessory buildings and signs.
 20. The stages to be followed in the construction of the development of the site, if applicable.
 21. Site capacity calculations and the location and extent of any physical limitation on development, such as floodplain, steep slopes, forest, etc. (See Chapter 10-04).
 22. A legend containing the scale which shall be appropriate to the size of the project, but not less than one (1) inch equals one hundred (100) feet, the date of preparation, north arrow, and designation of existing and proposed contours at one (1) or two (2) foot intervals, whichever is more appropriate.
 23. Public facilities and service impact analysis, including a traffic/access, water system, sewer system, and stormwater analysis per current "Engineering Design and Construction Standards and Specifications", if applicable. (Ord. 1997, 6-15-99)
 24. The existing zoning of the site and all adjoining property.
 25. Copies of all homeowners' association documents, if applicable.
- E. **STANDARDS OF REVIEW.** When considering an application for development review approval, the reviewing body shall consider the extent to which:
1. The development complies with all provisions of these regulations.
 2. The site plan review documents comply with the terms and provisions of any prior rezoning or conditional use approval.
 3. The plan adequately and safely provides for vehicular or pedestrian safety, both on and off site, by reason of properly arranged vehicular or pedestrian ingress and egress and internal circulation, or that excessive traffic congestion will not be created.

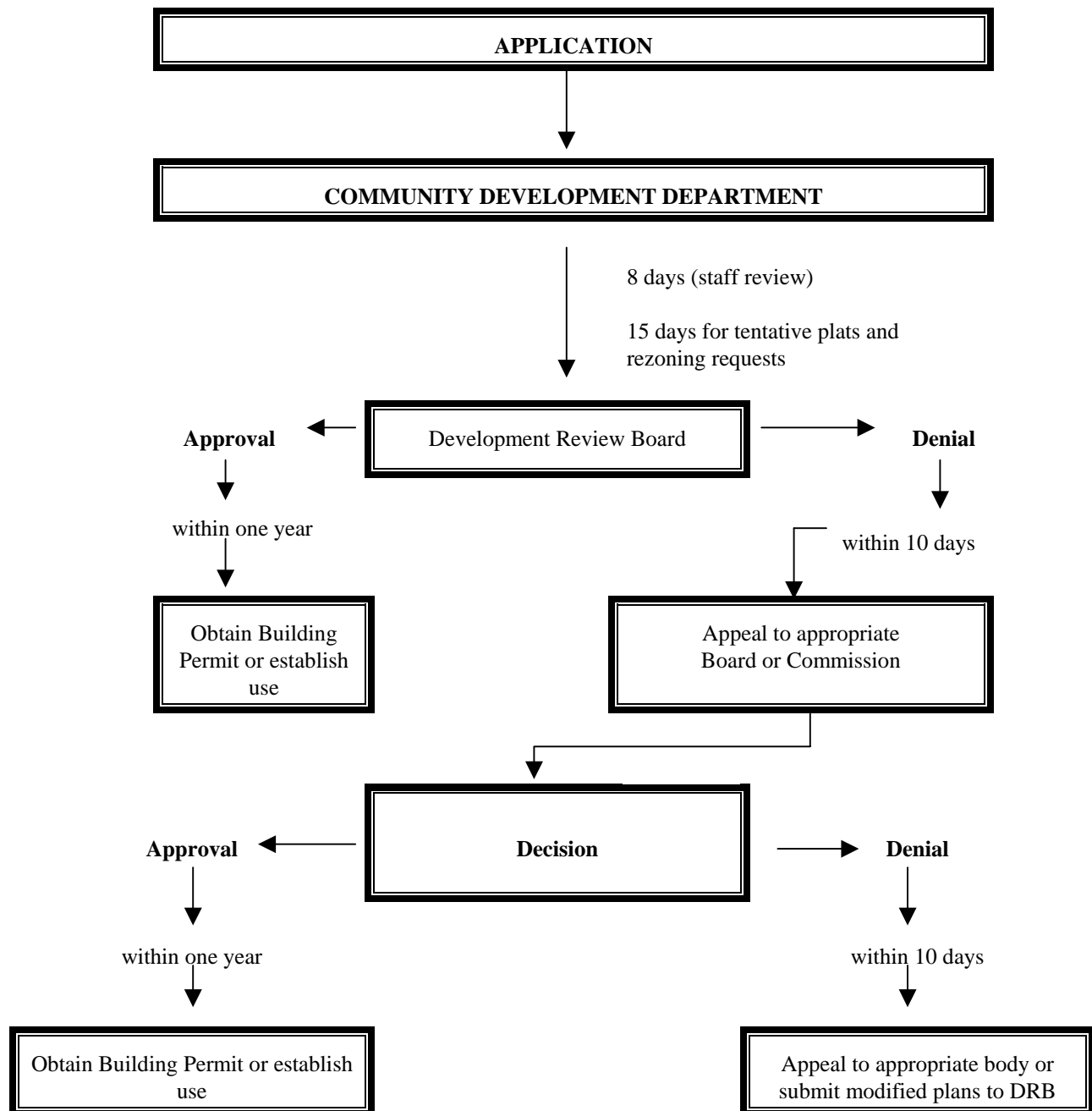
10-10-004-0003

4. The plan has proposed lighting so arranged as to not shine upon or reflect onto adjoining properties; or that proposed signs, and their lighting, are of such size, location, or color as to not interfere with traffic or limit visibility of adjoining property and will not contribute to light pollution of the night.
 5. The plan has made adequate provision to protect adjoining properties and structures from excessive and unreasonable noise, vibrations, gases, odors, and other factors which will interfere with the use and enjoyment of surrounding properties.
- F. ACTION BY THE DEVELOPMENT REVIEW BOARD.
1. RECEIPT OF APPLICATION. Upon receipt of an application, the Community Development Department shall refer the development review documents to any affected department or agencies which shall determine whether the application complies with pertinent City standards and regulations.
 2. DECISION BY THE DEVELOPMENT REVIEW BOARD. Upon receipt of the reports from other departments or agencies, the Development Review Board shall take one of the following actions:
 - a. Approve the development or site plan application as submitted.
 - b. Approve the development review application with conditions.
 - c. Disapprove the development review application.
 3. CONDITIONS. The Development Review Board may impose such conditions upon the approval of the design review documents as are necessary to safeguard the public welfare, safety, and health, including the submission of revised documents incorporating required conditions and modifications.
- G. FILING. Copies of approved development review documents shall be filed in the office of the Planning Division.
- H. EFFECT OF APPROVAL. Approved development review documents shall be binding upon the applicants and their successors and assigns. No Building Permit, Sign Permit or Zoning Permit shall be issued for any building or structure or use that is not in accord with the approved documents. The construction, location, use, or operation of all land and structures within the site shall conform to all conditions and limitations set forth in the documents. No structure, use, or other element of approved design review documents shall be eliminated, altered, or provided in another manner unless an amended site plan is approved in accordance with the provisions of Subsection J. hereof.
- I. EXPIRATION. Approved development review documents shall expire if a building permit has not been obtained or the approved use established within one (1) year of the date of approval. In the event that the documents become invalid due to the passage of this time period, new development review documents must be submitted for approval in the same manner as an original application for development review. (Ord. 1997, 6-15-99)
- J. AMENDMENTS. The holder of approved development review documents may request a modification to the documents or the conditions of approval by submitting amended documents to the Community Development Department. The amended documents shall be filed and processed pursuant to Section 10-10-003-0005.

10-10-004-0003

- K. APPEALS. An action or decision regarding a development review application may be appealed in writing by the applicant or City Councilmember to the appropriate appeal board or commission within ten (10) days of the decision. (Ord. 1741, 3-17-92)

**ILLUSTRATION 10-10-004-0003
DEVELOPMENT/SITE PLAN REVIEW**



10-10-004-0004. CONDITIONAL USES:

- A. **PURPOSE.** Conditional uses are those uses which are presumptively compatible with other land uses authorized or permitted in a zoning district, but which require more discretionary review than those uses which are authorized and may require the imposition of conditions in order to ensure that the number of such uses, their location, design, and configuration are appropriate at a particular location.
- B. **APPROVALS REQUIRED.** Only those uses which are authorized as conditional uses in Chapter 10-03 or those nonconforming uses identified in this Chapter may be approved as conditional uses. The designation of a use as a conditional use in a zoning district does not constitute an authorization or an assurance that such use will be approved, and each proposed conditional use shall be evaluated by the decision-making body for compliance with the standards and conditions set forth in this Section and for each district. However, the presumption is that if the applicant demonstrates full compliance with these standards and conditions, the use will be approved.
- C. **CONDITIONAL USE PERMIT APPLICATION.** Applications for Conditional Use Permits shall be submitted to the Planning Director and shall contain the following information:
1. Address or location of proposed use.
 2. Existing and intended use or uses.
 3. Names and addresses of all property owners within three hundred (300) feet of the proposed location, along with pre-addressed stamped envelopes to such property owners pursuant to Section 10-10-003-0004.
 4. Submittal of site plan with required site information and such additional information as required by the Planning Division or the Planning and Zoning Commission for its determination.
 5. All site capacity and resource protection calculations required by this Ordinance, if applicable. (Ord. 1741, 3-17-92)
- D. **REVIEW OF APPLICATION.**
1. **APPLICATION AND REVIEW.** An application for a Conditional Use Permit shall be submitted along with the required number of site plans to the Planning Director on an approved form and shall be reviewed by the Director in conjunction with other appropriate City departments. Within twenty-five (25) calendar days after receipt of the approved application, the Planning Director shall forward a report and recommendation on the application for a Conditional Use Permit to the Planning and Zoning Commission.
 2. **PUBLIC HEARING AND DECISION.** The Planning and Zoning Commission shall hold a public hearing in accordance with the provisions of Section 10-10-003-0004 on the application for a Conditional Use Permit and shall, at the conclusion of the public hearing, approve with or without conditions or disapprove the application in accordance with the standards for conditional uses and other applicable provisions of these regulations. The Planning and Zoning Commission shall make its decision within thirty (30) days of the public hearing, and shall send the applicant its decision in writing. The required findings shall be:
 - a. The Conditional Use Permit shall be issued only for those uses listed as conditional uses in Chapter 10-03 for the applicable zone and for termination of nonconforming uses under provision of this Chapter.

10-10-004-0004

- b. The Conditional Use Permit shall be issued only when the Planning and Zoning Commission finds that the applicant has considered and adequately addressed the following to ensure that the proposed use will be compatible with the surrounding area:
 - (1) Access and traffic; pedestrian, bicycle and vehicular circulation.
 - (2) Adequacy of site and open space provisions, including site capacity and resource protection standards where applicable.
 - (3) Noise, light, visual, and other pollutants.
 - (4) Proposed style and siting of structure(s), and relationship to the surrounding neighborhood.
 - (5) Landscaping and screening provisions.
 - (6) Impact on public utilities.
 - (7) Signage and outdoor lighting.
 - (8) Compliance with General Plan policies and Land Use Plan Map. (Ord. 1997, 6-15-99)
 - (9) Dedication and development of streets adjoining the property.
 - (10) Impacts on historical, prehistoric, or natural resources.
 - c. The Conditional Use Permit shall be issued only with the stipulation that those conditions necessary to ensure the compatible and complementary development of the property in question, and to safeguard and ensure the intent and purpose of this Ordinance, will be fulfilled.
 - d. The Conditional Use Permit shall be issued only with the stipulation that those conditions necessary to ensure the provision of the appropriate off-site improvements, as set forth by Ordinance, will be fulfilled.
 - e. The Conditional Use Permit shall be issued only with the stipulation that any modification of the site plan imposed by the Planning and Zoning Commission will be complied with.
 - f. The Conditional Use Permit shall have an effective date of ten (10) days following the date of approval by the Planning and Zoning Commission, unless the Commission's action is appealed pursuant to Subsection D.3 below. (Ord. 1997, 6-15-99)
3. **APPEAL TO CITY COUNCIL.** Any person aggrieved by a decision of the Planning Commission to approve or disapprove a conditional use may file an application for appeal with the City Council within ten (10) calendar days of the decision. If a decision by the Planning Commission on a Conditional Use Permit is appealed, the City Council shall conduct a public hearing as soon as is reasonably practical in accordance with the procedures of Section 10-10-003-0004. The City Council shall affirm, reverse, or modify the decision of the Commission at the conclusion of the public hearing in accordance with the standards for conditional uses and other applicable provisions of these regulations.
- E. **CONDITIONS OF APPROVAL.** The decision-making body may attach such conditions to a Conditional Use Permit as are necessary to carry out the purposes of the General Plan or other adopted plan and to

10-10-004-0004

prevent or minimize adverse effects upon other property in the neighborhood. Some of the conditions may include, but are not limited to: limitations on size, bulk, and location; requirements for additional landscaping or bufferyards; provision of adequate ingress and egress; and other conditions such as the duration of the permit, hours of operation of the use, and time limits on construction; and mitigation of adverse environmental impacts. The decision-making body may also apply resource protection standards to Conditional Use Permits in the established "E" Districts (see Chapter 10-04). (Ord. 2000-08, 6/6/00)

F. EFFECT OF APPROVAL.

1. Issuance of a permit for a conditional use shall be deemed to authorize only the particular use and site plan for which it is issued, and such approval shall be deemed to run with the land. The applicant shall be required to follow the procedures of this Chapter for any additional applicable permits in order to proceed with the development of the subject property.
2. All such conditions shall be binding upon the applicants, their successors and assigns; shall run with the land; shall limit and control the issuance and validity of certificates of occupancy, and shall restrict and limit the construction, location, use, and maintenance of all land and structures within the development. The applicant shall also be required to sign the Conditional Use Permit, have it notarized, and have it recorded by the City in the office of the Coconino County Recorder.

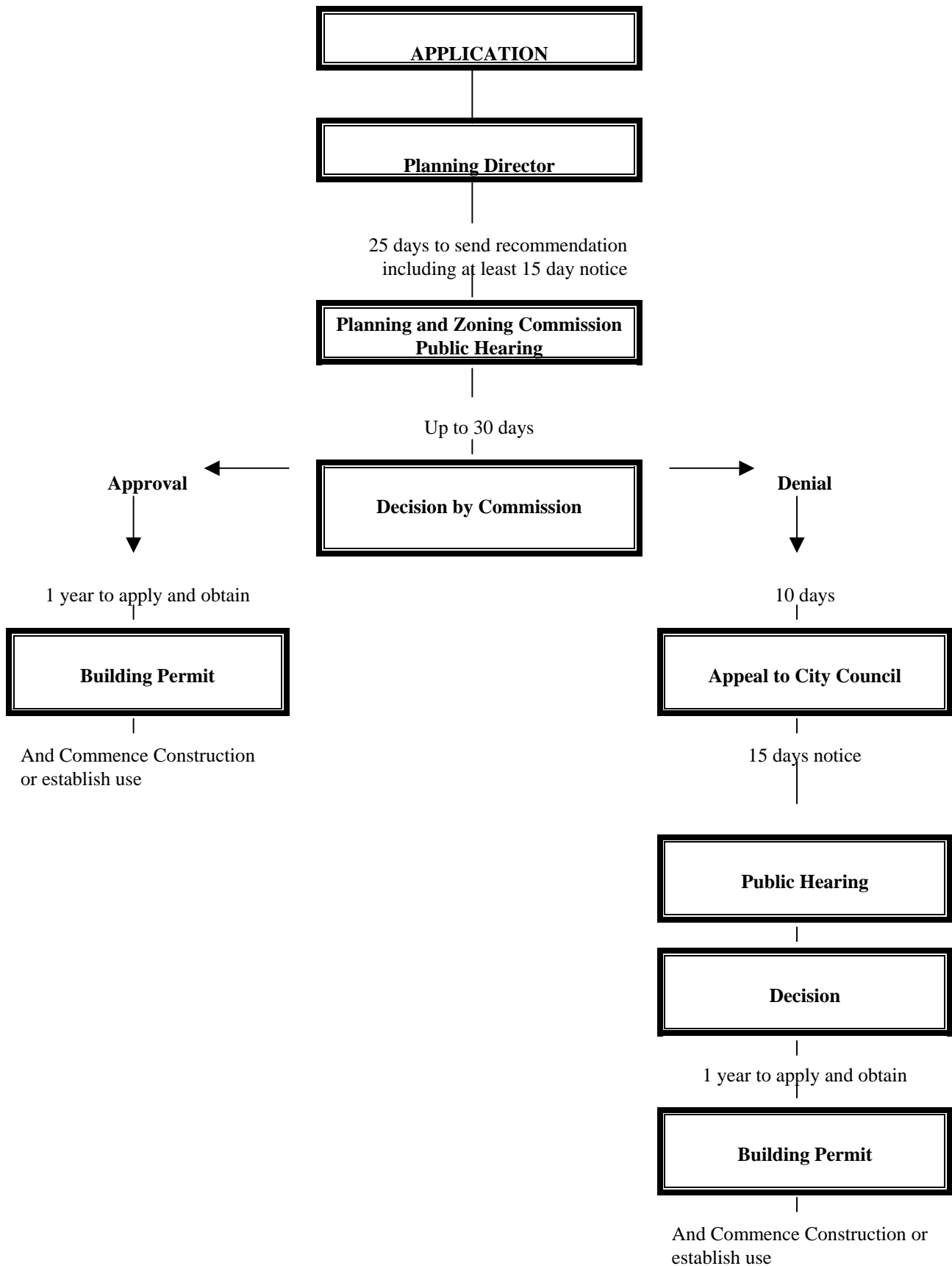
G. DEVELOPMENT UNDER AN APPROVED CONDITIONAL USE PERMIT.

1. A Conditional Use Permit shall become null and void one (1) year after the effective date unless one of the following has occurred:
 - a. A Building Permit has been issued and construction begun and diligently pursued; or
 - b. The approved use has been established; or
 - c. An extension has been granted by the Planning and Zoning Commission. Such extension shall be for a maximum of one hundred eighty (180) days, and no extension may be granted which would extend the validity of the permit more than eighteen (18) months beyond the effective date of the permit. The Commission may, when granting an extension to a Conditional Use Permit, modify the original conditions or add conditions to the original Conditional Use Permit, if deemed appropriate by the Commission; or (Ord. 1741, 3-17-92) (Ord. 1997, 6-15-99)
 - d. The Commission has established a different expiration date for the permit, such as tying it to the expiration date of a rezoning ordinance for the same property. (Ord. 1997, 6-15-99)
2. Development of the use shall not be carried out until the applicant has secured all other permits and approvals required by these regulations, the City, or applicable regional, state, and federal agencies.

H. COMPLIANCE/REVOCATION. The Planning Director, upon inspection and review of any Conditional Use Permit, shall report to the Planning and Zoning Commission when the conditions of operation imposed in the approval and issuance of the Permit have not, or are not being complied with. The Planning and Zoning Commission shall notify the Permit holder and shall set the matter of revocation for a public hearing. If the Planning and Zoning Commission finds, following a public hearing, that the conditions imposed in the issuance of a Conditional Use Permit are not being complied with, the Conditional Use Permit may be revoked and further operation of the use for which the Permit was approved shall constitute a violation of this Ordinance.

- I. Illustration 10-10-004-0004 summarizes the procedure for obtaining a Conditional Use Permit.

ILLUSTRATION 10-10-004-0004
CONDITIONAL USE PERMIT PROCEDURE



10-10-004-0005. VARIANCES/BOARD OF ADJUSTMENT

- A. **PURPOSE.** The purpose of a variance procedure is to provide a means whereby the literal terms of these regulations need not be applied where there are practical difficulties or unnecessary hardships so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. See Chapter 10-09 for Board of Adjustment Powers and Duties.
- B. **FILING OF APPLICATIONS.** A petition for a variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property. The application, on a form provided for this purpose by the City, shall be accompanied by a non-refundable filing fee as established by the City Council. Applications for variances shall be submitted to the Planning Director, and shall contain at least the following information: (Ord. 1997, 6-15-99)
1. Address or location of the subject property. (Ord. 1997, 6-15-99)
 2. Existing and intended use or uses, and how the use or uses would be affected by approval or denial of the requested variance. (Ord. 1997, 6-15-99)
 3. The required number (per application) of copies of a site plan/plot plan and any other material which pertains to the request. (Ord. 1997, 6-15-99)
 4. The specific Land Development Code Section Number(s) from which the variance is requested. (Ord. 1997, 6-15-99)
 5. A written explanation of the request, addressing the standards for granting variances in "E" below. (Ord. 1997, 6-15-99)
 6. Any other information which the applicant feels would be helpful and/or pertinent to the request. (Ord. 1997, 6-15-99)
- C. **STAFF REVIEW.** An application for a variance authorized under the provisions of this Section shall be submitted to the Planning Director and shall be reviewed by the Board of Adjustment within twenty-five (25) calendar days after receipt of a complete application. The recommendation of the Planning Director shall be submitted to the Board of Adjustment prior to the public hearing and shall set forth whether the variance should be granted or denied and the grounds for such recommendation.
- D. **BOARD OF ADJUSTMENT DECISION.** The Board of Adjustment shall review the application and the recommendation of the Planning Director and shall conduct a public hearing on the application in accordance with the requirements of Section 10-10-003-0004. At the conclusion of the public hearing, the Board of Adjustment shall review the application in light of the standards set forth in Subsection E. below and in Chapter 10-09, the testimony at the public hearing, and the record. The Board of Adjustment shall then grant the variance, grant the variance subject to specified conditions, or deny the variance.
- E. **STANDARDS FOR GRANTING VARIANCES.** A variance shall only be granted if the applicant demonstrates all of the following:
1. That, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of these regulations will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district.
 2. That a grant of a variance will be subject to conditions as will ensure that the adjustment authorized will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

10-10-004-0005

3. The special circumstances applicable to the property are not self-imposed by any person presently having an interest in the property.
 4. The variance will not allow the establishment of a use which; (1) is not otherwise permitted in the zoning district, (2) would result in the extension of a non-conforming use, or (3) would change the zoning classification of any or all of the subject property.
- F. **CONDITIONS.** Issuance of a variance may be made subject to such conditions as are necessary to carry out the purposes of these regulations and ensure that the variance authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located. Conditions serving to prevent or minimize adverse effects upon other property in the neighborhood shall include, but shall not be limited to: limitations on size and location; hours of operation; requirements for landscaping or bufferyards; lighting; and ingress and egress.
- G. **EFFECT OF APPROVAL OR DENIAL.** After the Board of Adjustment approves a variance, the applicant shall be required to follow the procedures of this Chapter for any additional applicable permits in order to proceed with the development of the subject property. Any variance granted shall be void if the use is not commenced or if a building permit has not been obtained within one (1) year of such granting or within the time stipulated at the time the variance was approved. All subsequent orders, decisions, determinations, and interpretations made by the City under those procedures shall be consistent with the variance granted to the applicant. Any request for extension of an approved variance shall be processed as a new request under this Section. No request for variance which has been denied by the Board of Adjustment may be resubmitted as substantially the same request for a period of one (1) year from the date of denial. (See the flow chart at the end of Section 10-10-004-0006, Administrative Appeals.) (Ord. 1997, 6-15-99)
- H. **APPEAL FROM THE BOARD OF ADJUSTMENT.** An applicant or any other person aggrieved by the decision of the Board of Adjustment may appeal that decision directly to the Superior Court by filing a complaint for special action within thirty (30) days after the Board has rendered its decision. Filing the complaint shall not automatically stay proceedings on the decision sought to be reviewed, but the Court may grant a stay on application. The Court shall affirm or reverse, in whole or in part, or modify the decision reviewed.

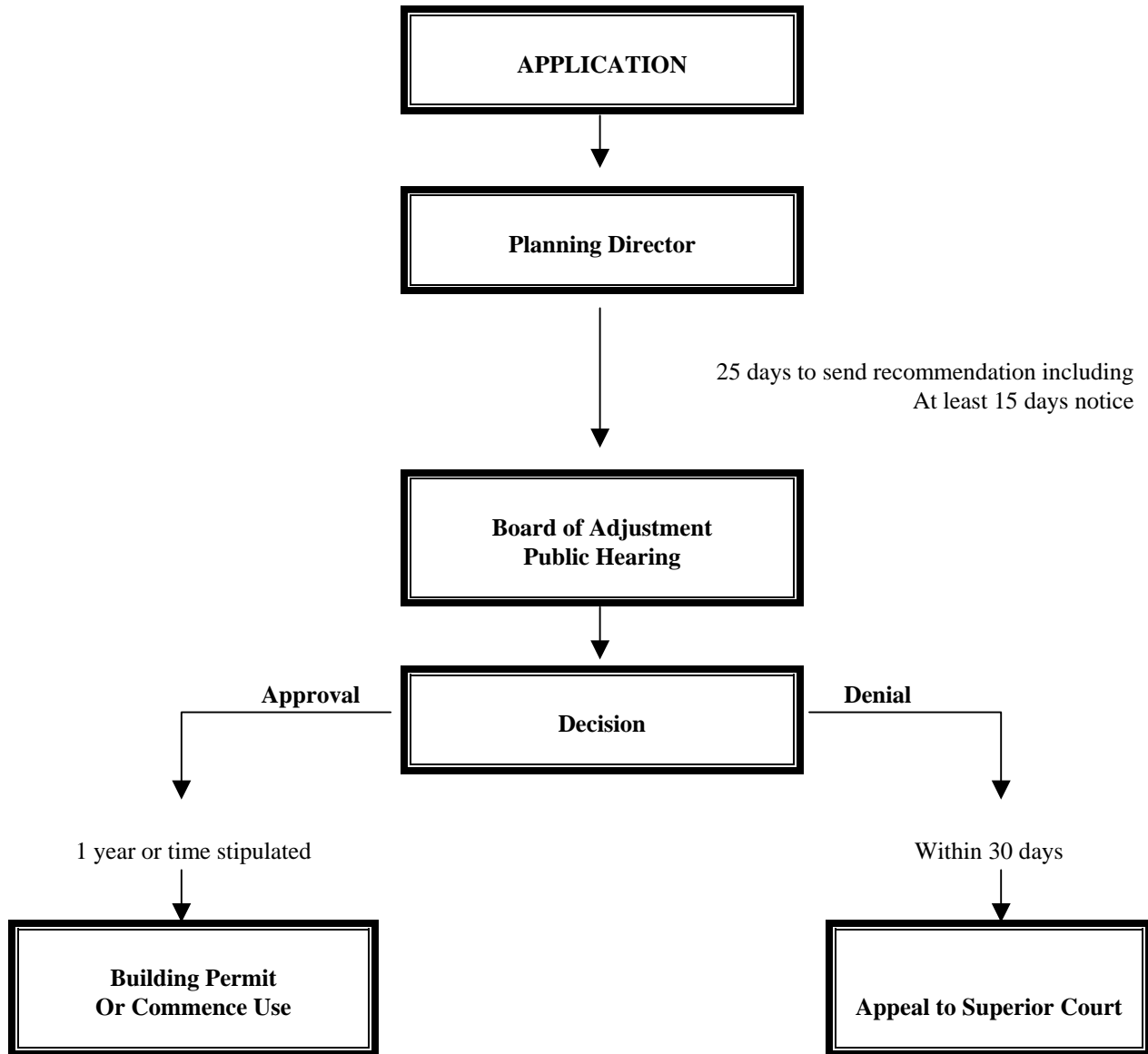
10-10-004-0006. ADMINISTRATIVE APPEALS/BOARD OF ADJUSTMENT:

- A. **PURPOSE.** The purpose of this Section is to allow appeals from decisions of administrative officers to ensure that these regulations are administered properly and consistently with the policies adopted by the City.
- B. **DECISIONS WHICH MAY BE APPEALED.** Appeals may be heard by the Board of Adjustment where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of these regulations.
- C. **FILING OF APPEAL.**
1. An appeal may be initiated by any person aggrieved by any decision of any administrative entity of the City.
 2. An application for appeal, on a form prescribed for this purpose provided by the City, shall be filed with the Planning Director and with the officer rendering the contested order, decision, determination, or interpretation, within ten (10) calendar days of the date of the order, requirement, decision, or determination is made or rendered by the administrative officer. The Planning Director may waive or extend this deadline only upon determining that the person filing the appeal received no actual or constructive form of notice of the order, requirement, decision, or determination being appealed. The application shall be accompanied by a nonrefundable filing

10-10-004-0006

3. fee as established by the City Council. Failure to file such notice and fee in a timely manner shall constitute a waiver of any rights to appeal under this Section.
 4. The filing of such notice shall require the officer whose action is appealed to transmit to the Planning Director all administrative papers, records, and other information regarding the subject matter of the appeal.
 5. Except as provided below, the filing of such notice shall stay any proceedings in furtherance of the contested action. The Planning Director may certify in writing to the Board of Adjustment that, because of facts stated in the certificate, a stay imposes an imminent peril to life or property or would seriously interfere with the enforcement of these regulations. The Board shall then review such certificate and may override the stay of further proceedings. Proceedings shall not be stayed if the appeal requests relief which has previously been denied by the Board of Adjustment except pursuant to a court order.
- D. REVIEW. An administrative appeal authorized under the provisions of this Section shall be submitted to the Planning Director and shall be reviewed by the Board of Adjustment within twenty-five (25) calendar days after receipt of a complete application. The recommendation of the Planning Director regarding an application notice of appeal authorized under the provisions of this Section shall be submitted to the Board of Adjustment prior to the scheduled public hearing and shall set forth whether the appeal should be granted or denied and the grounds for such recommendation.
- E. BOARD OF ADJUSTMENT DECISION. The Board of Adjustment shall review the application and the recommendation of the Planning Director and shall conduct a public hearing on the application in accordance with the requirements of Section 10-10-003-0004. The Board of Adjustment shall reverse or modify the order, decision, determination, or interpretation under appeal only upon finding an error in the application of these regulations on the part of the officer rendering the order, decision, determination, or interpretation. The Board of Adjustment shall grant the appeal, grant the appeal subject to specified conditions, or deny the appeal. In modifying the order, decision, determination, or interpretation, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken. The record or motion regarding the appeal shall state the reasons the Board of Adjustment used and the findings of fact the Board made in reaching its decision.
- F. EFFECT OF REVERSAL OR MODIFICATION OF ADMINISTRATIVE DECISION. If the Board of Adjustment reverses or modifies an order, decision, determination, or interpretation of an administrative officer, the appellant shall be required to follow the procedures of this Chapter for the approval of any permits in order to proceed with the development of the subject property. All orders, decisions, determinations, and interpretations made by the decision-making body under those procedures shall be consistent with the reversal or modification granted to the appellant.
- G. APPEAL FROM THE BOARD OF ADJUSTMENT. An applicant or any other person aggrieved by the decision of the Board of Adjustment may appeal the decision directly to the Superior Court by filing a complaint for special action within thirty (30) days after the Board has rendered its decision. Filing the complaint shall not automatically stay proceedings on the decision sought to be reviewed, but the Court may grant a stay on application. The Court shall affirm or reverse, in whole or in part, or modify the decision reviewed.

**ILLUSTRATION 10-10-004-0006
VARIANCES AND ADMINISTRATIVE APPEALS**



10-10-004-0007. TEXT AMENDMENTS AND REZONINGS:

- A. **PURPOSE.** The purpose of this Section is to allow amendments to the text of these regulations and the Zoning Map so that the City may respond to changing conditions as reflected initially in amendments to the City's planning documents. The provisions of this Section are not intended to relieve particular hardships nor to confer special privileges.
- B. **INITIATION OF APPLICATIONS.**
1. Amendments to the text of these regulations may be initiated by the City Council, the Planning and Zoning Commission, or the Planning Director.
 2. Amendments to the Zoning Map may be initiated by the City Council, the Planning and Zoning Commission, the Planning Director, or owners of real property (or their agents) in the area to be affected by the amendment. In the event that an application filed by a real property owner in the area involved includes property other than that owned by the applicant then, before the application will be accepted for processing, the applicant shall file, on a form provided by the Planning Division, a petition in favor of the request signed by the real property owners representing at least seventy-five (75) percent of the land area to be included in the application. Said petition shall bear the property owners' signatures and addresses, the legal description and land area of each property represented on the petition, the total land area represented by the petition, and the total land area of individual properties included in the application. (Ord. 1997, 6-15-99)
 3. **Pre-application.** Prior to application for any rezoning, a preapplication review with the Development Review Board will be required. The purposes of the preapplication review are:
 - a. To familiarize the Development Review Board with the request;
 - b. To determine application requirements and familiarize the applicant with the review process and procedures;
 - c. To identify land use and development policies which may affect the outcome of the request;
 - d. To permit a cursory technical review at a conceptual stage to identify conflicts in objectives and to identify potential solutions for those conflicts; and
 - e. To identify the requirements for citizen participation and familiarize the applicant with related issues.
 - f. To identify the requirements for a rezoning application, including but not limited to a public facilities and service impact analysis addressing traffic/access, water system, sewer system, and stormwater analysis per current "Engineering Design and Construction Standards and Specifications"; and a preliminary assessment of natural resources and site capacity calculations for existing and proposed zoning, if applicable. (Ord. 2001-13, 07-17-01)
 4. **Application.** Applications for rezoning shall be submitted to the Director of Planning and shall contain the following information:
 - a. Address or location of the proposed rezoning.
 - b. A statement of the reasons for the request.
 - c. Names, addresses and Assessor's parcel numbers of all property owners within three hundred (300) feet of the proposed rezoning, along with pre-addressed, stamped envelopes to such property owners, pursuant to Section 10-10-003-0004. (Ord. 2001-13, 7/17/01)

10-10-004-0007

- d. A map showing the subject property as well as the surrounding property located within a distance of three hundred (300) feet.
 - e. A legal description and map of the subject property.
 - f. Preliminary assessment of natural resources and site capacity calculations for existing and proposed zoning if applicable. (Ord. 1741, 3-17-92) (Ord. 1997, 6-15-99)
 - g. Public facilities and service impact analysis, including a traffic/access, water system, and sewer system analysis per current "Engineering Design and Construction Standards and Specifications" if applicable. (Ord. 1741, 3-17-92)
 - h. Preliminary site concept plan, including conceptual streetside architectural elevations for each structure on individual or single-phase sites, and schedule of development if applicable. For larger, multi-phase sites, conceptual architectural elevations beyond the first phase shall be submitted with the proposed development plans for Development Review Board approval. (Ord. 1741, 3-17-92) (Ord. 2000-08, 6/6/00)
 - i. A Development Master Plan, if required by the Planning Director. (See Section 10-11-006-0001) (Ord. 1997, 6-15-99)
 - j. A Citizen Participation Plan and Report. (Ord. 2001-13, 07-17-01)
5. Citizen Participation Plan.
- a. Every application for rezoning shall include a citizen participation plan which must be implemented prior to the first public hearing.
 - b. The purposes of the citizen participation plan are to:
 - (1) Ensure that applicants pursue early and effective citizen participation in conjunction with their applications, giving them the opportunity to understand and try to mitigate any real or perceived impacts their application may have on the community;
 - (2) Ensure that the citizens and property owners of Flagstaff have an adequate opportunity to learn about applications that may affect them and to work with applicants to resolve concerns at an early stage of the process; and
 - (3) Facilitate ongoing communication among the applicant, potentially affected citizens and adjacent property owners, city staff, and elected officials throughout the application review process.
 - c. The citizen participation plan is not intended to produce complete consensus on all applications, but to encourage applicants to be good neighbors and to allow for informed decision making.
 - d. At a minimum the citizen participation plan shall include the following information:
 - (1) Which adjacent property owners, potentially affected citizens, political jurisdictions and public agencies may be affected by the application;

10-10-004-0007

- (2) How those potentially affected by an application will be notified that an application has been made or will be made;
 - (3) How those potentially affected parties will be informed of the substance of the change, amendment, or development proposed by the application;
 - (4) How those potentially affected will be provided an opportunity to discuss the applicant's proposal with the applicant and express any concerns, issues, or problems they may have with the proposal in advance of the public hearing;
 - (5) The applicant's schedule for completion of the citizen participation plan;
 - (6) How the applicant will keep the Planning Division informed of the status of their citizen participation efforts.
 - e. The level of citizen interest and area of involvement will vary depending on the nature of the application and the location of the site. The target area for early notification will be determined by the applicant after consultation with the Planning Division. At a minimum, the target area shall include the following:
 - (1) Property owners within the public hearing notice area specified by City ordinances;
 - (2) The head of any homeowners' association or registered neighborhood group or organization within the public notice area specified by City ordinances;
 - (3) Other potentially affected citizens who have requested that they be placed on the notification list maintained by the Planning Division.
 - f. These requirements apply in addition to any notice provisions required elsewhere in the City's ordinances.
 - g. Applicants may submit a citizen participation plan and begin implementation prior to formal application, at their discretion. This shall not occur, however, until after the required pre-application meeting and consultation with the Development Review Board. (Ord. 2001-13, 07-17-01)
6. Citizen Participation Report.
- a. This section applies only when a citizen participation plan is required by the ordinance codified in this section.
 - b. The applicant shall provide a written report on the results of their citizen participation effort with the appropriate application. This report will be attached to the Planning Division's public hearing report.
 - c. At a minimum, the citizen participation report shall include the following information:
 - (1) Details of techniques the applicant used to involve the public, including:
 - (a) Dates and locations of all meetings where citizens were invited to discuss the applicant's proposal;

- (b) Content, dates mailed, and numbers of mailings, including letters, meeting notices, newsletters, copy of mailing list and other correspondence, including a copy of the mailing list;

10-10-004-0007

- (c) Where residents, property owners, and potentially affected citizens receiving notices, newsletters, or other written materials are located; and
- (d) The number and names of people that participated in the process.
- (2) A summary of concerns, issues and problems expressed during the process, including:
 - (a) The substance of the concerns, issues, and problems;
 - (b) How the applicant has addressed or intends to address concerns, issues and problems expressed during the process; and
 - (c) Concerns, issues and problems the applicant is unwilling or unable to address and why. (Ord. 2001-13, 7/17/01)
- C. **STAFF REVIEW.** An application for an amendment to the text of these regulations or the Zoning Map shall be submitted to the Planning Director and shall be reviewed and a recommendation prepared within twenty-five (25) days after receipt of a completed application. The recommendation of the Planning Director shall be submitted to the Planning and Zoning Commission prior to the scheduled public hearing. The recommendation shall set forth whether the amendment or rezoning should be granted, granted with conditions, or denied, and shall include a recommended zoning district classification, and the grounds for any such recommendations as they relate to the standards and purposes of the zoning district classifications set forth in Chapter 10-02 and the City's General Plan.
- D. **STANDARDS FOR REVIEWING PROPOSED AMENDMENTS.** All proposed amendments shall be evaluated as to whether the application is consistent with and conforms to the objectives and policies of the General Plan and any other adopted plan and whether the proposed change would not be detrimental to the majority of the persons or property in the surrounding area, nor to the community in general. If the application is not consistent with and does not conform to the adopted General Plan and any other adopted plan, the applicable plan must be amended in accordance with the procedures of Chapter 10-12 of these regulations prior to considering the proposed amendment. The Planning Director shall determine if a General Plan (or other adopted plan) amendment is required and whether the amendment would be a minor or major plan amendment, based upon the criteria set forth in Section 10-12-001-0002. (Ord. 1997, 6-15-99) (Ord. 2001-13, 7/17/01)
- E. **PUBLIC HEARINGS.**
 - 1. If the Planning Director determines that the rezoning requested would not require a General Plan (or other adopted plan) amendment, the Planning Commission shall give notice and shall conduct a public hearing on the application in accordance with the requirements of Section 10-10-003-0004. (Ord. 2001-13, 7/17/01)
 - 2. If the Planning Director determines that the requested rezoning would require an amendment to the General Plan (or other adopted plan), the hearing requirements and procedures in Section 10-12-001-0003 must be followed before further action is taken on the rezoning application. (Ord. 2001-13, 7/17/01)
- F. **THE PLANNING COMMISSION** shall review the application and the testimony presented in the public

hearing and shall render a decision at the conclusion of or within thirty (30) days after the public hearing in the form of a written recommendation to the City Council.

10-10-004-0007**G. ACTION BY COUNCIL.**

1. **PUBLIC HEARING.** Upon receipt of a recommendation from the Planning and Zoning Commission, the City Council shall hold a public hearing. The City Council shall give notice and shall conduct the hearing in the manner set forth in Section 10-10-003-0004. The Council may conclude the public hearing at one meeting, or continue the hearing to a subsequent meeting according to Section 10-10-003-0004.B.2.c. The Council may also refer the application back to the Planning and Zoning Commission for further study and a revised recommendation. (Ord. 1997, 6-15-99)
2. **PROTEST AND VOTE OF CITY COUNCIL.** If the owners of twenty (20) percent or more, either of the area of the parcel(s) of land included in the proposed change, or of those immediately adjacent in the rear or any side thereof extending one hundred fifty (150) feet therefrom, or of those directly opposite thereto extending one hundred fifty (150) feet from the street frontage of the opposite parcels of land, file a protest in writing against a proposed amendment, the amendment shall not become effective except by a favorable vote of three-fourths (3/4) of all members of the City Council. If any member of the City Council is unable to vote on such a question because of a conflict of interest, then the required number of vote for passage of the question shall be three-fourths (3/4) of the remaining membership of the Council, provided that such required number of votes shall in no event be less than a majority of the full membership of the legally established governing body.
3. **DECISION OF THE CITY COUNCIL.** The City Council shall review the proposed amendment or rezoning and the recommendation of the Planning Commission and staff, and shall grant or deny the application by reading (or denying) the proposed ordinance for the first time, unless the public hearing has been continued. The first reading of the ordinance, if applicable, shall be made by the City Council within thirty (30) days of the conclusion of the hearing before that body. The final reading of the ordinance, as well as adoption of the ordinance and any supporting documents, may be scheduled at the Council's convenience. (Ord. 1997, 6-15-99)

H. CONDITIONS OF APPROVAL. The City Council may attach conditions to a rezoning request as are necessary to carry out the purposes of the General Plan or other adopted plan and ensure compatibility with adjacent land uses. Except as modified by actions of the City Council, conditions adopted by ordinance in accordance with prior law shall remain in full force and effect. A violation of any condition shall be considered to be a violation of these regulations. The City Council may approve a change of zoning district conditioned upon one (1) or more of the following:

1. A requirement that development proceed in accordance with a specific area plan or site plan and/or development schedule.
2. A requirement of public dedication of rights-of-way as streets, alleys, public ways, drainage and public utilities, and installation of off-site improvements as are reasonably required by or related to the effect of the rezoning.

I. APPEALS. The City shall notify the property owner in writing that there is a right of appeal, and shall describe the appeal procedure, with regard to the following matters under the provisions of Section 10-10-004-0015 of the Flagstaff City Code:

1. The requirement of a dedication or exaction as a condition of approval of a rezoning request. This does not apply to a dedication or exaction required in a legislative act of the Council that does not give discretion to the administrative agency or official to determine the nature or extent of the

dedication or exaction.

2. The adoption or amendment of a zoning regulation that may create a taking of property in violation of A.R.S. 9-500.13. (Ord. 2001-13, 7/17/01)

10-10-004-0007

J. REVERSION.

1. The City Council may approve a change of zoning district conditioned upon a schedule for development of the specific use or uses for which rezoning is requested, including a preliminary site concept plan as required under item B.3 of this Section.. If at the expiration of two (2) years a building permit has not been issued for the use for which it was conditionally approved, the City Council, after notification by certified mail to the owner and applicant who requested the rezoning, shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification. An extension of up to two years may be granted by the Planning and Zoning Commission and the City Council subject to the applicant filing an application with the Planning Director, at least sixty (60) days prior to the expiration of the zoning, a progress report and revised schedule of development on request for extension. (Ord. 1741, 3-17-92) (Ord. 1997, 6-15-99)

**ILLUSTRATION 10-10-004-0007
TEXT AMENDMENT AND REZONING**



State Law Reference: Amendment procedure ARS §9-462.03 (Amended by Laws 2000, 4th SS, Ch. 1&4) Public hearing required, ARS §9-462.04 (Amended by Laws 2000, 4th SS, Ch. 1&5).

Cross-reference: Section 10-10-004-0015 (Ord. 2001-13, 07-17-01)

10-10-004-0008. CERTIFICATES OF OCCUPANCY:

- A. GENERAL REQUIREMENTS. Except as may be provided in Subsection B. hereof, no building or structure shall be occupied or used until a Certificate of Occupancy has been issued by the Community Development Director after a determination that the building has been constructed or the site developed in accordance with the provisions of any Conditional Use Permit, plat approval, or Building Permit. A Certificate of Occupancy is required for any of the following circumstances unless exempted by the provisions of Subsection B hereof, after the Community Development Director has determined that the use complies with all of these regulations:
1. Occupancy and use of a building hereafter erected, reconstructed, enlarged, or moved.
 2. Significant change in use of an existing building.
 3. Significant change in occupancy and use of land.
 4. Any change in the use of a non-conforming use. (Ord. 1741, 3/17/92)
- B. EXCEPTION. A Certificate of Occupancy shall not be required for a mere change in ownership or for a change in use unless the new use would require the establishment of additional parking in accordance with the provisions of Chapter 10-07 (Parking, Loading, Access, and Private Street Requirements) of these regulations.
- C. PROCEDURE.
1. APPLICATION. An application for a Certificate of Occupancy or a Conditional Certificate of Occupancy shall be filed with the Community Development Director in a form prescribed for that purpose. (Ord. 1741, 3/17/92)
 2. ACTION ON APPLICATION.
 - a. The Community Development Director and Development Review Board representatives shall inspect the property that is the subject of an application for a Certificate of Occupancy or a Conditional Certificate of Occupancy to determine whether the use of the property and the structures comply in all respects with the provisions of these regulations and the City Code, including the provisions of any Conditional Use Permit, and to determine whether all construction debris is removed from the site. (Ord. 1741, 3/17/92)
 - b. If the use and structure do not comply with these regulations or other provision of the City Code or with any other applicable codes and ordinances of the City, the Community Development Director shall deny the application in writing, setting forth the provisions of these regulations or other provisions of the City Code or other regulations with which the structure or use does not comply unless he or she determines that a Conditional Certificate of Occupancy is warranted. (Ord. 1741, 3/17/92)
 3. CONDITIONAL CERTIFICATE OF OCCUPANCY.
 - a. A Conditional Certificate of Occupancy may be issued by the Community Development Director provided that:
 - (1) The applicant demonstrates that the construction which remains to be completed relates to the external conditions of the development, such as landscaping, and is not directly related to the safety of the premises;

10-10-004-0008

- (2) The applicant demonstrates that such completion is impractical at the time the Conditional Certificate of Occupancy is sought due to weather or other conditions acceptable to the Building Official and the Development Review Board representatives;
 - (3) The applicant secures the completion of the construction with appropriate security, in a form acceptable to the Community Development Director and the City Attorney, and in an amount sufficient to complete the construction, as determined by the Community Development Director; and/or
 - (4) The applicant demonstrates that the deficiencies are unrelated to the imminent life-safety risks.
- b. SUBMISSION. The application shall be submitted to the Director of Planning, who shall request the recommendations of the Development Review Board.
- c. SUBMISSION REQUIREMENTS. Requests for Conditional Certificates of Occupancy shall contain:
 - (1) A proposed agreement between the City and the developer wherein the developer promises to perform specified on-site improvements. Said agreement shall have a maximum term of twelve (12) months and shall be non-renewable.
 - (2) The reason for the request.
 - (3) The expected completion date.
 - (4) Financial surety acceptable to the City, the term of which shall exceed the term of the agreement in (1) above by a minimum of sixty (60) days.

10-10-004-0009. TEMPORARY USE PERMITS:

- A. Unless expressly provided to the contrary in Chapter 10-03, no temporary use shall be established or maintained unless a Temporary Use Permit evidencing the compliance of such use with the provisions of this Chapter and Chapter 10-03 has been approved by the Planning Director or designee, or the Development Review Board. If the Planning Director or the Development Review Board determines that the proposed development is in compliance with all the requirements of these regulations and all other applicable regulations of the City, then the Planning Division shall issue a Temporary Use Permit within ten (10) days of receiving the complete application. (Ord. 2002-15, 11-05-02)
- B. Unless otherwise provided for in Division 10-03-004, The Temporary Use Permit shall be valid for not more than one hundred eighty (180) days, unless, upon the written request of the applicant, the Planning Director extends the permit for not more than an additional one hundred eighty (180) days. (Ord. 1741, 3/17/92)

10-10-004-0010. SIGN PERMITS:

- A. APPLICABILITY. No individual Sign Permit shall be issued for a sign requiring a permit unless and until a Master Sign Plan for the zoning lot on which the sign will be erected has been submitted to and approved by the Planning Division.
- B. SUBMISSION. Applications shall be made to the Planning Division and shall be signed by all owners, or their authorized agents, of the property covered by the Master Sign Plan or of the property where a sign will be located.

10-10-004-0010**C. SUBMISSION REQUIREMENTS.**

1. Master Sign Plans shall contain the following:
 - a. An accurate plot plan of the zoning lot, at such scale as the Planning Division requires.
 - b. The location of buildings, parking lots, driveways, and landscaped areas of the zoning lot.
 - c. A computation of the maximum total signage area, the maximum area of individual signs, the height and number of free-standing signs allowed on the zoning lot included in the Master Sign Plan.
 - d. An accurate indication on the plot plan of the existing or proposed location of each present and future sign of any type, whether requiring a permit or not.
2. Requests for individual Sign Permits shall be accompanied by a Master Sign Plan if not previously submitted and shall contain:
 - a. Name and address of the applicant.
 - b. Address, parcel number, and zoning of the site of installation.
 - c. Size, height, and location of the sign.
 - d. Materials to be used.
 - e. Estimated costs of the sign.
 - f. A structural plan and elevation of the sign.
 - g. Color and illumination information.
 - h. Landscaping plan, if applicable.

D. REVIEW. Master Sign Plans shall be included in all development plans, site plans, and Planned Unit Residential Development plans and shall be processed simultaneously with such other plan. The Planning Division and the Building Division shall review Master Sign Plans and/or applications for individual Sign Permits for compliance with the requirements of this Ordinance, and shall make a decision. If the application is denied, the reasons shall be stated in writing.

E. FINAL DECISION. The final decisions shall be made by the Director of Planning and the Building Division, who shall make their decision within fourteen (14) days of receiving the complete Master Sign Plan and/or individual Sign Permit application.

10-10-004-0011. RESERVED:

(Ord. 1997, 6-15-99)

10-10-004-0012. BUILDING RELOCATION REQUESTS:

A. SUBMISSION. Requests for building relocation shall be submitted to the Planning Director. Upon verification that the request for building relocation complies with the submission requirements, the

Planning Director shall convey the request to the Development Review Board.

10-10-004-0012

B. SUBMISSION REQUIREMENTS. Requests for building relocations shall contain all of the following:

1. The address and zoning of the site from which the building will be relocated.
2. The address and zoning of the site to which the building will be relocated.
3. The current or most recent use of the building.
4. The exterior dimensions and elevations of the building to be relocated.
5. If the building is to be relocated in sections, the size of each portion of the building.
6. The proposed route for the relocation of the building.
7. The use to which the relocated building will be put in the new location.

C. REVIEW. The Development Review Board shall review the request for building relocation and make a decision regarding the request at a regular meeting. The Development Review Board may approve, disapprove, or approve the request with stated conditions. Before granting approval of a proposed relocation, the Board shall determine that all of the following conditions are satisfied:

1. That the structure is in conformity with the type and quality of buildings existing in the surrounding area of the proposed site for a distance of at least two hundred (200) feet. If there is vacant property in said surrounding area, or if the surrounding area is in transition, the Board shall take into consideration the type of structures and uses that will be located there in the future.
2. That the proposed relocation will not conflict with any of the property development standards of this Ordinance.
3. That the structure proposed to be relocated shall be completely free of pest infestation, and that a qualified pest exterminating firm shall have so certified.
4. That the proposed relocation will be in no way detrimental to persons or properties or to the environment of the area.
5. That the proposed relocation will not adversely affect any proposed streets or other improvements in the area, nor be in conflict with the General Plan of the City.
6. That the proposed relocation will not result in the violation of any law, ordinance, or regulation.

D. TEMPORARY STORAGE. At the applicant's request, the Development Review Board may approve the temporary storage of a building at another location while the permanent site is being prepared, using one of the following methods:

1. Storage permitted in an approved storage yard under these regulations; or
2. Storage at a vacant site near the proposed permanent site, subsequent to the issuance of a temporary permit.

E. PERMIT REQUIRED. No building or structure shall be moved, whether transported as a unit or in sections, from one lot or premises to another, until such relocation has been approved by the Development Review Board and the required permits issued.

10-10-004-0012

- F. **MOVING PERMIT REQUIRED.** The applicant or his authorized agent shall also obtain a permit from the City to move the structure over City streets. The application for said permit shall be accompanied by a cash deposit or bond sufficient to cover the cost of repair of any possible damage to streets, sidewalks, and other City facilities. The amount of said deposit or bond shall be established by the City Engineer.
- G. **VACATED SITE.** If the site from which the structure is moved is within the City of Flagstaff, said site shall be cleaned up and put in a neat and orderly condition prior to the issuance of the Occupancy Permit for the relocated structure.

10-10-004-0013. PROPERTY DEVELOPMENT REVIEW FEES:

- A. A schedule of property development review fees shall be maintained by the Community Development Department and made available to the public as a separate document. (Ord. 2002-15, 11-05-02)
- B. Only rezoning, Conditional Use Permit, or Annexation Fees are applicable when development site plan review is processed simultaneously. Only a rezoning fee is applicable when a related General Plan amendment is processed simultaneously.
- C. Fees shall be paid at the time of filing the application. No part of the fees is refundable.

10-10-004-0014. CIVIL HEARING OFFICER.

- A. **PURPOSE.** The purpose of the Civil Hearing Officer is to provide a means to conduct hearings upon a citation that alleges a civil violation of the City of Flagstaff Land Development Code.
- B. **FILING.** Every action or proceeding alleging a civil violation of the City of Flagstaff Land Development Code and brought before the Civil Hearing Officer shall be commenced by a civil citation.
- C. **HEARINGS.** Hearing shall be called by a Civil Hearing Officer as are necessary to perform the duties prescribed in the regulations. All hearings shall be set for a time certain and shall be open to the public and conducted in accordance with the provision of Chapter 13.
- D. **RECORDS.** Every order, requirement, decision or determination of a Civil Hearing Officer shall immediately be filed in the City Court and shall be of public record.
- E. **FINDING.** Upon review of the case by the Civil Hearing Officer, the alleged violator, if found responsible for the violation and penalized with civil sanction, shall not be relieved from the responsibility to maintain the property in compliance with the Code.
- F. **APPEAL.** The responsible party may appeal the decision of the Civil Hearing Officer to the Superior Court under the provisions of A.R.S. 22-425, and the applicable time limit by filing a complaint for special action.

10-10-004-0015. EXACTION APPEALS.**A. APPEAL PROCEDURES**

The following procedures shall apply to administrative actions regarding dedications or exactions required as a condition of granting approval for the use, improvement or development of real property where an administrative agency or official of the City has the discretion to determine the nature or extent of the dedication or exaction. These appeal procedures shall also apply to the adoption or amendment of a zoning regulation which may have the effect of a taking of property in violation of A.R.S. § 9-500.13:

1. The appeal must be filed on a form provided by the City and filed with the Hearing Officer designated by the City of Flagstaff, with a copy to the City Attorney, within 30 days after the Development Review Board or administrative official has made a determination requiring the dedication or exaction.

The identity of the Hearing Officer is as follows:
Flagstaff Planning and Zoning Commission
c/o The Community Development Director
Community Development Department
211 W. Aspen Avenue
Flagstaff, Arizona 86001
(520) 779-7632

2. The appeal shall specify, by allegation or allegations, the basis for the request. The City shall submit a takings impact report to the Hearing Officer within twenty (20) days of receipt of the appeal.
3. The hearing will be scheduled within thirty (30) days of receipt by the Hearing Officer of the applicant's request. In the event the appeal is based on issues pertaining to essential nexus and/or rough proportionality, the City will bear the burden of proving that the dedications, or exactions, or zoning regulation to be imposed on the property bear an essential nexus between the requirement and a legitimate city interest and that the proposed dedication or exaction is roughly proportional to the impact of the land use, improvement or development proposed by the applicant or, in the case of a zoning regulation, that the regulation does not create a taking of property in violation of A.R.S. § 9-500.13.
4. A minimum of ten (10) calendar days notice will be given to the applicant of the date, time and place of the hearing unless the applicant indicates to the Hearing Officer in the appeal request that less notice is acceptable. In the event a staff report is prepared for submittal to the Hearing Officer, the applicant shall be entitled to receive a copy as soon as it becomes available.
5. The Hearing Officer's decision shall be rendered within five (5) working days after the appeal is heard.
6. The Hearing Officer may affirm the dedication or exaction. In the event that the City does not meet its burden of proof under 3., above, the Hearing Officer shall modify it, or delete the requirement of the dedication or exaction. In the event of a zoning regulation, where the City has not met its burden under 3., above, the Hearing Officer shall transmit a recommendation to the City Council.
7. No fee will be charged for filing the appeal.
8. There are no further administrative appeals beyond the Hearing Officer. If the applicant is dissatisfied with the decision of the Hearing Officer, the applicant may file a complaint for a trial de novo with the Coconino County Superior Court within thirty (30) calendar days of the Hearing Officer's decision. (Ord. 2001-13, 7/17/01)

State Law Reference: Appeals of municipal exactions, A.R.S.

§ 9-500.12. (Amended by Laws 2000, 4th S.S., Ch. 1, § 9.) (Ord. 2001-13, 7/17/01)

10-10-004-0016. ANNEXATION PROCEDURES.

A. PURPOSE.

The purpose of this Section is to provide a process for annexing real property to the City of Flagstaff, so that the City may respond to changing development conditions and requests by owners of property outside the City limits for City services. The following procedures are intended to comply with and implement A.R.S. § 9-471, the policies set forth in the City's General Plan, "Growth Management Guide 2000", and other pertinent policies and regulations of the City of Flagstaff. (Ord. 2001-13, 7/17/01)

B. PRE-APPLICATION REVIEW.

1. The preliminary or pre-application review stage of a potential annexation is intended to provide the applicant with an informal review with appropriate City staff. The informal meeting will take place preceding the preparation and submittal of the official annexation application to the Planning and Zoning Commission.
2. The applicant will initially present a proposal to the Development Review Board (DRB) as an informal review item, as provided for in Section 10-10-003-0002 of this Code. The DRB application should include a general outline of the proposal consisting of sketch plans and ideas regarding land use, zoning, street and lot arrangement, lot sizes, and tentative proposals regarding water supply, sewage disposal, grading and drainage, traffic impacts, and improvements. In conformance with A.R.S. § 9-471, the applicant should include information on how the property will be provided with appropriate levels of infrastructure and services to serve anticipated new development within ten (10) years after the annexation. The Development Review Board will advise the applicant of specific public objectives, standards, and regulations related to the subject property, including the potential need for a public facilities and service impact analysis (traffic, water, and sewer). and details and suggestions regarding design and improvement standards, and general procedures and requirements, and the determination of a need for the preparation of a Development Master Plan. If a General Plan amendment and/or rezoning is anticipated, the applicant should present information regarding these requests. (Ord. 2001-13, 7/17/01)

C. INITIATION OF APPLICATION.

Following the pre-application conference with the Development Review Board, the applicant or an authorized representative shall submit the following material to the Development Review Board at least fifteen (15) days prior to a regularly scheduled meeting of the Board at which the applicant desires the annexation application be considered:

1. Completed Development Review Board and Annexation Applications, and GMG/Rezoning Application (if applicable). One (1) copy of the preliminary title report shall be filed with the DRB application.

If the applicant is not the current landowner of all of the subject real property, a signed and notarized statement shall also be filed attesting that the owner(s) grant(s) to the applicant authority to represent the owner(s) in this matter. Names, addresses, and phone numbers of landowners, and docket/page numbers of instruments by which titles were conveyed (Warranty Deed, Quit Claim Deed, Purchase Agreement, etc.) to be provided, if available.

2. Three (3) copies of the legal description sealed by a registered land surveyor, in an eight and one-half by eleven (8½ x 11) inch format reproduced in the form of blue or black letters on a white paper background. (Upon approval one [1] copy of the legal description printed on archival paper will be required.)

10-10-004-0016

3. Three (3) copies of an accurate exhibit or location map with north point, scale, site location and existing points of reference, to accompany and concurring with above legal description which shall be in the same 8½ x 11 inch format as the above legal description. (One [1] copy of the exhibit map printed on archival paper will be required prior to recording.)
4. One (1) reproducible copy of the proposed annexation map, which shall be drawn in waterproof ink on linen or other non-shrinking material on a sheet not to exceed twenty-four (24) inches by thirty-six (36) inches in overall dimensions, and which shall have a left margin of two (2) inches. All annexations requiring more than one (1) map sheet shall have a cover sheet indicating the entire annexation area and the proposed section to be found on the corresponding individual pages. The annexation map shall be drawn to scale of not more than one hundred (100) feet to the inch (1 inch = 100 feet) unless the Planning Director approved an alternative. (Upon approval one [1] original copy of the official annexation map will be required prior to recording.)
5. Three (3) copies of a public facilities and service impact analysis, including a traffic/access, water system, and sewer system analysis per current "Engineering Design and Construction Standards and Specifications" if applicable.
6. Nine (9) copies of a preliminary concept site plan is required to include the following information:
 - a. Existing street dedications and lot lines of all adjacent properties. Subdivided properties must be indicated by subdivision name and Coconino County Recorder's Office Book and Page Number; if unsubdivided land, property owners shall be noted.
 - b. Location, size and names and types of all existing rights-of-way and easements within the annexation boundaries and two hundred (200) feet from such boundaries.
 - c. All existing features, including, but not limited to, bridges, buildings, culverts, structures within the annexation boundaries and within a distance of two hundred (200) feet from such boundaries. Identify those which are to be removed and those to remain, and the date when any removals shall be completed.
 - d. Existing County and City zoning classification(s) within the annexation boundaries and on abutting properties.
 - e. Acreage of the annexation by note as to gross acreage and net acreage. (See Chapter 10-14 for Definitions).
 - f. Location and description of existing utilities within two hundred (200) feet of the proposed annexation. Reference by note, the location and description of such utilities if not located within two hundred (200) feet of the proposed development.

- g. Location of water wells, streams, ditches, washes, lakes, or other water features; direction of flow; 100-year flood plain, location and extent of areas subject to inundation, whether such inundation be frequent, periodic or occasional, within the annexation boundaries and two hundred (200) feet beyond such boundaries.

10-10-004-0016

- h. Preliminary natural resource and site capacity calculations for proposed zoning if applicable.
 - i. Plans for resource preservation, management, and mitigation of adverse impacts on neighboring properties, in compliance with Chapter 10-04 of the *Land Development Code*, including bufferyards, where appropriate.
 - j. Proposed development plan which includes the same information as required under the rezoning concept plan requirement.
- 7. A non-refundable annexation filing fee to compensate the City for the cost of examining and processing the annexation and subsequent field investigations. (See Property Development Review Fee Schedule, available as a separate document. (Ord. 2002-15, 11-05-02)
 - 8. If the Planning Director determines that a Development Master Plan shall be required, the Development Master Plan shall be submitted to the Development Review Board and the Planning and Zoning Commission for their review and approval. Ten (10) copies of the proposed Development Master Plan must be prepared according to the procedures and requirements in Divisions 10-11-006 and 10-11-007 of the *Land Development Code*. If the Development Master Plan is not approved by the Commission, the applicant may appeal to the City Council.
 - 9. A complete draft of a Development Agreement based on the informal review by the Development Review Board and incorporating appropriate conditions for development of the property. In conformance with A.R.S. § 9-471, the draft Development Agreement shall include a plan, policy, or procedure to provide the annexed territory with appropriate levels of infrastructure and services to serve anticipated new development within ten (10) years after the date when the annexation becomes final. (Ord. 2001-13, 7/17/01)

D. DEVELOPMENT REVIEW BOARD MEETING.

The Development Review Board shall meet with the applicant, and/or representative, to review, discuss and consider the annexation in regards to specific public objectives and adopted standards and regulations. No action will be taken by the Development Review Board except to outline the requirements for submission of a complete application. (Ord. 2001-13, 7/17/01)

E. APPLICATION FOR PLANNING AND ZONING COMMISSION.

Upon final review of the annexation application by the Development Review Board, the applicant or authorized representative shall submit the following materials to the Planning Division at least twenty-five (25) days prior to a regularly scheduled meeting of the Planning and Zoning Commission at which the applicant desires that the annexation application be considered.

- 1. Ten (10) copies of the accurate exhibit or location map with north point, scale, site location, and existing points of reference, concurring with the legal description specified in Subsection C.2. above.

2. One (1) eight and one-half by eleven (8½ x 11) inch clear film positive (transparency) of the annexation map.
3. Ten (10) copies of the proposed draft Development Agreement.

10-10-004-0016**F. PLANNING AND ZONING PUBLIC HEARING.**

Staff will review and approve all documents prior to scheduling of Public Hearings before the Planning and Zoning Commission and the City Council prior to filing the blank annexation petition.

Staff will then schedule a public hearing before the Planning and Zoning Commission to review and make recommendations to the City Council on the Annexation, Development Agreement, and General Plan change and/or rezoning (if applicable). (Ord. 2001-13, 7/17/01)

G. BLANK PETITION: CITY COUNCIL PUBLIC HEARING.

Prior to review of the annexation application by the City Council, the City of Flagstaff will file a blank annexation petition in the Coconino County Recorder's Office. Within thirty (30) days of the filing, the City Council will hold a public hearing to discuss the annexation proposal, the Development Agreement and Rezoning (if applicable). If a General Plan change and/or a rezoning is required, separate hearings will be scheduled for these requests. (Ord. 2001-13, 7/17/01)

H. RETURN OF BLANK PETITION TO APPLICANT.

Upon the expiration of the thirty (30) days referenced above, the City of Flagstaff will return the blank annexation petition to the applicant, or authorized representative, to obtain signatures of more than one-half (½) of the property owners and signatures of owners representing one-half (½) or more of the value of the property requested to be annexed. The period to obtain the signatures shall not exceed one (1) year from the end of the thirty (30) day period referenced above. (Ord. 2001-13, 7/17/01)

I. RETURN OF COMPLETED PETITION TO CITY: NECESSARY DOCUMENTS.

Subsequent to verification of the completed annexation petition, the City will prepare the necessary documents for the adoption of the annexation ordinance. If a General Plan amendment and/or a rezoning is required, the resolution and/or ordinance may be scheduled concurrently, along with any other associated development approvals. (Ord. 2001-13, 7/17/01)

J. APPROVAL BY CITY COUNCIL.

Once the annexation ordinance and other documents are completed, the Planning Division will schedule them for City Council review and approval. Upon approval of the annexation by the City Council, the applicant shall submit to the Planning Division, the following, which shall be dated and signed upon receipt:

1. One (1) completed annexation petition which shall be identical to the approved petition.
2. One (1) copy of the legal description for recordation, which shall meet the requirements of Subsection C.2. of this Section.
3. One (1) copy of the exhibit or location map for recordation, which shall meet the

requirements of Subsection C.3. of this Section.

4. One (1) opaque linen or mylar copy of the final annexation map for recordation, which shall meet the requirements of Subsection C.4. of this Section.
5. One (1) eight and one-half by eleven (8½x 11) inch reduced transparent positive of the final annexation map. (Ord. 2001-13, 7/17/01)

10-10-004-0016

K. NOTIFICATION OF AGENCIES.

When the ordinance(s) become(s) effective, the Coconino County Assessor, the Coconino County Recorder, the Coconino County Community Development Department, and other interested parties will be notified of the Council action, including copies of the ordinance(s) as needed. (Ord. 2001-13, 7/17/01)

State Law Reference: Annexation of territory, A.R.S. § 9-471. (Amended by Laws 2000, 4th S.S., Ch. 1, § 7; Laws 2000, Ch. 179, § 1. (Ord. 2001-13, 7/17/01)

DIVISION 10-10-005. NONCONFORMITIES

10-10-005-0001. PURPOSE AND SCOPE:

The purpose of these regulations is to regulate and limit the development and continued existence of uses, structures, and parcels of land established prior to the effective date of these regulations which do not conform to the requirements of these regulations. Many nonconformities may continue, but the provisions of these regulations are designed to curtail substantial investment in nonconformities and to bring about their eventual improvement or elimination in order to preserve the integrity of these regulations and the character of the City.

Any nonconforming use, structure, or parcel of land which lawfully existed as of the effective date of these regulations and which remains nonconforming, and any use, structure, or parcel of land which has become nonconforming as a result of the adoption of these regulations, or any subsequent amendment to these regulations, may be continued or maintained only in the manner and to the extent it existed at the time of adoption, amendment or extension of this ordinance, and in accordance with the terms of this Chapter. Other property nonconformities, for example signage, landscaping, parking and lighting, are addressed in the Chapters relating to those items. (Ord. 1997, 6-15-99)

10-10-005-0002. EXPANSION OF NONCONFORMING USE:

Except as provided in this Chapter, a nonconforming use shall not be expanded or extended beyond the floor area or lot area that it occupied on the effective date of these regulations or the effective date of any amendment to these regulations rendering such use nonconforming.

10-10-005-0003. ABANDONMENT OF NONCONFORMING USE:

If a nonconforming use is abandoned for a period of one hundred eighty (180) consecutive days, including any period of abandonment before the effective date of these regulations, then that use shall not be renewed or re-established. Any subsequent use of the parcel of land or structure shall conform to the regulations of the zoning district in which it is located.

10-10-005-0004. CHANGE OF NONCONFORMING USE:

A nonconforming use may be changed to an authorized use or a conditional use for the zoning district in which the property is located. A nonconforming use shall not be changed to another nonconforming use, except where an application for such a change has been reviewed and approved in accordance with the provisions of Section

10-10-005-0009. (Ord. 1997, 6-15-99) (Ord. 1997, 6-15-99)

10-10-005-0005. REPAIR OR RECONSTRUCTION OF NONCONFORMING STRUCTURE:

- A. Reasonable repairs and alterations may be made to a nonconforming structure. The Community Development Department shall determine what constitutes "reasonable repairs and alterations."
- B. If a nonconforming structure is destroyed or damaged by a fire, flood, windstorm, or similar abnormal and identifiable event, and the cost of restoring the structure to its condition immediately prior to the event does not exceed fifty (50) percent of the cost of restoring the entire structure, then the structure may be restored to its original nonconforming condition, provided that a Building Permit is secured, reconstruction is started within one hundred eighty (180) days from the date of the damage, and such reconstruction is diligently pursued to completion. The Community Development Department shall determine the cost of restoration.
- C. If a nonconforming structure is destroyed or damaged by a fire, flood, windstorm, or similar abnormal and identifiable event, and the cost of restoring the structure to its condition immediately prior to the event exceeds fifty (50) percent of the cost of restoring the entire structure, then the structure shall not be restored unless the structure as restored, and the use thereof, will thereafter conform to all requirements of the zoning district in which it is located. The Community Development Department shall determine the cost of restoration.

10-10-005-0006. ALTERATION OR ENLARGEMENT OF NONCONFORMING STRUCTURE:

Except as provided in this Section, a nonconforming structure shall not be enlarged in any manner or undergo any structural alteration having the effect of increasing or extending the nonconformity(ies) unless to make it a conforming structure. Such alteration or enlargement may be permitted provided that: (Ord. 1997, 6-15-99)

- A. The enlargement or alteration itself conforms to the requirements of these regulations or does not increase the nonconformity; and
- B. The enlargement or alteration does not increase the nonconforming portion(s) of the "footprint" of the structure, or add usable square footage in the nonconforming portion(s) of the structure, unless approved by the Planning Director; and (Ord. 1997, 6-15-99)
- C. The use of the structure is conforming.

10-10-005-0007. MOVING OF NONCONFORMING STRUCTURE:

A nonconforming structure shall not be moved in whole or in part to any other location unless every portion of such structure and the use thereof is made to conform with all requirements of the zoning district to which such structure is moved. The moving of the structure also shall comply with the requirements of applicable City regulations.

10-10-005-0008. NONCONFORMING LOTS:

- A. No building shall occur on lots which do not comply with the development standards of the relevant zoning district, except as provided in Subsection C. below.
- B. If two (2) or more lots, or portions of lots, with contiguous boundaries are owned by the same person and are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the development standards of the district, then the lots involved shall be considered to be an undivided parcel. No portion of said parcel shall be used or sold which does not meet the development standards established in this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot which does not meet the development standards prescribed in this Ordinance.
- C. Notwithstanding any deficiency in lot dimensions or lot area, owners of single, non-conforming lots, or lots merged pursuant to Subsection B. which are non-conforming, may be granted a Building Permit upon

approval by the Planning and Zoning Division. In granting the approval, the Planning and Zoning Division may authorize only development which complies with all relevant zoning requirements, except area and dimensions. The lots described in Paragraph D. below shall not be eligible for a Building Permit.

- D. Lots or parcels owned by a person who owns or has owned an adjoining or contiguous lot at or after the effective date of this Ordinance shall not be eligible for the permit authorized in Subsection C. above.

10-10-005-0009. TERMINATION OF NONCONFORMING STATUS:

- A. **AUTHORITY.** Notwithstanding any provisions of this Chapter prohibiting the continuation, reconstruction, or expansion of nonconforming uses and structures, a nonconforming use or structure may be deemed to be in conformity with the requirements of these regulations, and may be allowed to continue and to expand as a lawfully existing use or structure through the issuance of conditional use approval in accordance with the procedures and standards of Section 10-10-004-0004.
- B. **APPLICATION.** To establish a nonconforming use or structure as a lawfully existing use, the owner of the property or his or her authorized agent shall apply for conditional use approval in accordance with the procedures contained in Section 10-10-004-0004.
- C. **REVIEW.** The application for termination of nonconforming status shall be reviewed in accordance with the same procedures and standards set forth in Section 10-10-004-0004 for conditional uses and the standards of this Section. In reviewing and approving an application, the decision-making body shall consider whether the nonconforming use or structure can be improved as follows:
1. A landscaped buffer could be provided between the nonconforming use or structure and any abutting parcel of land in order to provide the maximum buffering effect for potentially adverse impacts of the use or structure on abutting properties;
 2. Off-street parking areas located on the parcel of land could be improved with interior landscaping so as to minimize potentially adverse impacts of the use or structure on abutting properties;
 3. Nonconforming signs, outdoor lighting, off-street parking areas, and other nonconforming accessory structures located on the parcel of land could be removed or brought into conformity, or closer into conformity with the applicable requirements of these regulations; (Ord. 1997, 6-15-99)
 4. A nonconforming structure would not be expanded or enlarged so as to increase the degree of nonconformity, such as by further encroachment into a required yard; and
 5. Any expansion or enlargement of the use or structure could be limited to no greater than fifty (50) percent of the floor area or lot area that it occupied on the effective date of these regulations or any amendment to these regulations which rendered the use or structure nonconforming, whichever is later.
- E. **EFFECT OF APPROVAL.** Upon approval of the application for termination of nonconforming status by the Planning and Zoning Commission, the use or structure shall no longer be treated as nonconforming and shall be allowed to continue as a lawfully existing use or structure unless it is abandoned or discontinued for a period of one hundred eighty (180) consecutive days. This status as a lawfully existing use shall apply only to the use or structure for which the conditional use approval is issued and not to any other use or structure that may be located on the parcel of land.